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NOTES ON
INDIAN MILITARY AND AIR FORCE LAW

Issued by

GENERAL HEADQUARTERS, INDIA

(B.54048 A. G.-8)

PUBLISHED BY THE MANAGER OF PUBLICATIONS DELHI.

Printed by the Manager, Feroz Printing Works, 365, Circular Road, Lahore.

PREFACE

These Notes have been prepared and issued with the intention of—

(*a*) Bringing to notice matters on which mistakes have occurred frequently in the past.

(*b*) Systematizing certain procedure.

These Notes must not be accepted as a substitute for the Manuals of Indian Military and Air Force Law or Regulations, but are intended merely as a guide to those books. It is believed that they will be of material assistance to staff and other officers concerned in trials by court martial.

It is directed that officers concerned, in the discharge of their respective duties, shall pay particular attention to these Notes with the object of systematizing procedure and reducing to a minimum legal and other errors in connection with courts-martial.

To avoid unnecessary repetition, the same note has not been produced under all the various duties. A reference to the Contents table will, however, show where a note on a particular matter will be found.

A copy of this pamphlet will be laid before every court-martial, and will be issued to every officer appointed to take a summary of evidence or to act as prosecutor or defending officer.

Section or Sec. throughout the pamphlet refers to a Section of the Indian Army Act.

Since no Manual of Indian Air Force Law has been published, and the volume containing the Indian Air Force Act and the Indian Air Force Act Rules has no preliminary chapters or explanatory notes to the sections and rules, the references throughout the body of these notes are to the manual of Indian Military Law. The principles set out in the passages referred to are applicable generally to trials under the I.A.F.A. Appendix 'C' sets out certain corresponding references to the Indian Air Force Act and Indian Air Force Act Rules. For the proper discharge of their duties it is however essential that officers concerned in the administration of Indian air force Law should have access to the Manual of Indian Military Law.

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(All references to the M. I. M. L. are to the 1937 Edition, as reprinted April 1942).

NOTES ON INDIAN MILITARY LAW

PRELIMINARY INVESTIGATION AND TAKING OF THE SUMMARY OF EVIDENCE.

1. *The first investigation* will generally be made by the company commander. Before a case is reserved for disposal by the commanding officer, the company commander should satisfy himself that all available evidence, whether in the form of witnesses or documents, which bears on the offences, has been procured. It is an excellent plan for the company commander at this stage to frame charges in accordance with the specimens shown in the Manual and verify that the evidence supports the charges. This ensures that the accused is being brought before the commanding officer on legal charges.

2. *Presence at investigation of officer detailed to take summary.*—If a summary of evidence is likely to be ordered the officer, detailed to take it, must be present during the investigation before the commanding officer, so that he is conversant with the facts. If necessary, the case should be remanded for further investigation by the commanding officer. The investigation must be thorough *before* the summary of evidence is taken. Time thus spent will be time saved in the long run, as a bad summary almost invariably leads to an unsatisfactory or abortive trial.

3. *Action before recording summary.*—Before commencing to record the summary of evidence, the officer detailed should—

(*a*) Question any witness about evidence that is not clear to him or on matters on which he

thinks the witness may be able to give evidence.

(*b*) Arrange to call or summon any witnesses whose evidence seems desirable or which will help to arrive at the truth.

(*c*) Obtain or frame tentative charges.

(*d*) Study the charges, the notes to the appropriate sections of the I. A. A. and make out a table (*see* Appendix "A" attached), showing evidence required.

(*e*) Write for statements of evidence from distant or absent witnesses. *I. A. A. R.* 15 (*H*).

(*f*) Arrange order of witnesses. For preference those producing documents first—others in chronological order.

(*g*) Obtain originals or certified copies (where admissible) of *all exhibits*.

(*h*) Eliminate unnecessary witnesses. One or perhaps two credible witnesses only are necessary to prove a fact that is not seriously disputed.

(*i*) The evidence should be recorded, as far as possible, in the words of the witnesses in narrative form. This does not mean that the officer taking the summary of evidence is to record everything that a witness states. He should record only such matters as are evidence and relevant to the charge or possible charges. If in doubt, he should record rather than omit a passage. The commanding officer is responsible that the officer detailed for this duty has recorded all necessary evidence, and, generally, that the case

for trial is properly made out and as strong as possible.

(NOTE.—There is no provision for a summary of evidence under I.A.A. being taken on oath.)

4. *Evidence only to be recorded.*—A great deal of unnecessary time is wasted through the officer taking the summary of evidence recording the *whole* of the statements of witnesses as they give them, irrespective of whether such statements are evidence or even relevant. This is a common error and often the whole of the *investigation* of the offence by a N. C. O., etc., and all the reports made to various authorities are recorded. The briefest and most certain way of avoiding "hearsay" is to record "in consequence of information received I proceeded to the barrack room and saw, etc. . . . . ."

5. *Evidence of local knowledge to be recorded.*—An officer taking a summary of evidence must bear in mind that officers other than those in the unit have to read and understand the evidence. These officers are not acquainted with matters such as regimental customs, the contents of regimental orders, the duties and responsibilities of various individuals, identity of signatures or other writing, systems and methods of accounting, technical matters, etc. The evidence of a witness, who can speak of such matters of his own knowledge or produce the necessary exhibits is therefore necessary and should be contained in the summary of evidence.

6. *Documents to be produced by witnesses.*—For a document to be admissible in evidence at the trial it must be produced by a witness on oath and identified as what it purports to be and, if referred to therein, the accused should be identified. The officer taking the summary of evidence may have collected all exhibits into his own possession for safe custody, but he should hand

them to the witness to produce and identify. The record should be in the following form:—

"M" "I produce and identify the Petty Cash Account Book of the Rifle Club, 50th Punjab Regiment. (Marked "M" and attached)."

"M" "I am acquainted with the handwriting of Havildar X, whom I identify as the accused before the court. In my opinion the whole of the handwriting on pages 2—8 of Exhibit "M" is that of the accused, with the exception of the words 'J. Singh, Captain, President, Q. A. Board'."

"M" I identify and point out the signatures on pages 2, 4 and 8 of Exhibit "M" as those of the accused."

7. *Marking of the exhibits.*—As pages of court-martial proceedings are marked "A" to "J," the convening order will be marked "K". Other exhibits produced should be marked lightly in pencil in the top right hand corner with the letters "L" (or "M" if there is likely to be a prosecutor's opening address) to "Z" then "AA" to "ZZ", in the order in which produced. Whenever an exhibit is produced or mentioned the letter should be noted in the margin as shewn in paragraph 6 above. Exhibits such as bicycles, rifles, etc., need not be given identification letters, except where it is necessary to distinguish articles of the same nature from each other.

8. *Original exhibits to be sent to convening officer.*—The original summary of evidence and *all* the original exhibits should be sent to the convening officer, together with the number of additional typed copies required. Copies or extracts from all exhibits must be attached to each copy of the summary of evidence. Copies and

extracts should be made on forms, so as to resemble, as nearly as possible the original documents.

9. *Investigation by commanding officer essential.*—It is an essential preliminary to bringing an accused officer or soldier before a court-martial that the charge should be laid before his commanding officer in order that he may determine, in his discretion, whether it should be proceeded with. (I.A.A. R. 15 (B).) No authority other than a commanding officer has the right to direct that a summary of evidence shall be taken.

In cases therefore where it is necessary for a charge against an officer or soldier to be investigated away from his unit or where an officer or soldier has no commanding officer other than the holder of the warrant for convening a court martial it is essential that he should be attached to a unit, formation or department, whose commander will then be his commanding officer for the purposes of I.A.A. 7 (6), and will become primarily responsible for the investigation of the charge.

10. *Plans and Sketches.*—Where precise information as to the locality of the offence is likely to be of use in understanding a case, a plan drawn to scale should accompany any summary of evidence submitted to superior authority. If it is considered necessary that matters of evidence should be shown on this plan (*e.g.*, place where the body was found, in a murder case, or position of accused or a witness) the plan should be in duplicate, and these matters should only appear on one copy. If the plan is subsequently produced at the trial, the unmarked copy will be used, being put in and sworn to by the person who made it. These matters of evidence will then (if necessary) be marked on it, in accordance with the evidence given at the trial, and a note to that effect made in the proceedings.

11.

THE CHARGE-SHEET.—*See M.I.M.L. p.* 348.

12. *Description of accused by his rank.*—It is essential that the accused be described by his rank and appointment, if any and not merely by his appointment. He should be described as Sepoy (Lance Naik) or Warrant Officer, Class II (Company Warrant Officer). *R.A.I. Rule* 201.

13. *Signature of.*—The charge-sheet must be signed by the C. O. (not for him) of the unit to which the accused belongs or to which he is attached. The unit as shewn in the description of the accused and the unit of the C. O. must be the same.

14. *Attachment for trial to another unit.*—For convenience it is permissible to attach an accused to a unit other than his own for trial. Accused should be described as No., rank, name . . . . . 2nd Battalion, The Delhi Regiment attached 1st Battalion, The Bihar Regiment. The charge-sheet in this case will be signed by the O. C., 1st Bn., The Bihar Regiment.

15. *Joint trial of soldiers of different units.*—If it is desired to try jointly two soldiers of different units, one should be attached to the unit of the other and the charge-sheet signed by the O. C. that unit.

16. *Separate charge-sheets* should be framed in exceptional circumstances only, as evidence on one charge-

sheet is inadmissible on another charge-sheet, with the result that the trial is considerably lengthened. Separate charge-sheets should be framed in those cases where—

(a) The bulk of the evidence is separate and distinct, and

(b) The evidence is so long that the court may become confused or the accused embarrassed in his defence, if all the charges are placed in one charge-sheet.

If the accused applies to have charges tried separately, his request should be allowed, unless there are very real reasons against this proceeding.

17.

CHARGES GENERALLY.

18. *Aim at simplicity.*—Avoid, whenever legally possible complicated offences and those difficult to prove.

19. *Avoid multiplicity of charges. I.A.A.R.* 20. *Note* 3.—It is undesirable and unfair to the accused to record in his documents convictions for offences, which, in reality, form part of one transaction, or convictions for minor offences which accompany the commission of a serious offence. *K. R.* 661. Preferring several charges

in the hope that conviction on some will result, shews insufficient investigation and lack of confidence in the evidence.

20. *Beware of duplicity.*—If two separate and distinct offences, even of the same kind, are included in one charge, the charge may be bad in law. *I.A.A.R.* 20 (*A*). The following are examples:—

Section 27 (*d*)—two distinct instances of using criminal force to the same N. C. .O.

Section 28 (*a*)—two separate insubordinate remarks to two N. C. Os.

Section 27 (*e*)—two separate instances of disobedience of the same order.

Section 39 (*h*)—disobedience of the same regimental order on three separate dates.

Section 31 (*d*).—committing theft on a number of occasions over a period of three weeks.

21. *Vagueness and uncertainty* in the particulars must be avoided. *I.A.A.R.* 20 (*D*). Not only must the particulars contain averments of all the ingredients necessary to constitute the offence charged, but the particulars must be such as to inform the court of the facts which it is called upon to try and the accused of the allegations which he has to meet. The following particulars would be so vague as to necessitate the charges being quashed for uncertainty:—

Section 39 (*h*).—"Neglecting to obey regimental orders in that he, at . . . . . on . . . . . disobeyed regimental orders, *viz.,* orders for the N. C. O. in charge of the main guard." Quashed on the ground that it was not averred which particular order the accused neglected to obey.

Section 39 (*i*).—"at . . . . . on . . . . . did wilfully make a false answer to his superior officer". Quashed on the ground that the particulars did not specify either the statement alleged to be false or the person to whom it was alleged to have been made

22. *Alternative charges* should be framed in accordance with the instructions contained in *note* (6) on *p.* 348 *M. I. M. L.* Alternative charges should not, however, be framed as a matter of course, and are often unnecessary if the case has been properly investigated.

Where two incidents arising out of one transaction form the subject-matter of two charges, not laid in the alternative, conviction on both charges is unsustainable if, in effect the charges are alternative to each other.

23. *The particulars of the charge must support the statement of offence. I. A. A. R.* 20, *note* (*B*).—In the following cases the particulars do not to support the statement of offence:—

Section 27 (*e*).—Disobeying the lawful command of his superior officer in that he, at . . . . on . . . when ordered to remove medal ribbons, which he was wearing, did not comply with the order. The particulars failed to allege that the command was given by any or which superior officer.

Section 31 (*d*).—Committing theft in respect of the property of a person subject to military law, in that he, at . . . . on . . . . was in possession of a pair of shoes the property of a person subject to military law. The particulars failed to allege that accused had stolen the shoes.

24. *The statement of offence must be in the words of the Indian Army Act. I. A. A. R.* 20 (*C*) *and note* (4) *on page* 348, *M. I. M. L.*—This is essential because the wrongs which are offences, the ingredients of those offences and the punishments therefor are matters which are laid down by the Legislature in various Acts. Failure to follow the wording of those Acts, in any material particular, will result in the invention of an offence, neither recognised nor punishable by law.

The following are examples of bad or defective charges:—

Section 27 (*d*)—'threatening to use criminal force to his superior officer'. Threatening to assault is not an offence under that sub-section. A charge of being grossly insubordinate to his superior officer would be appropriate.

Section 31 (*c*)—'wilfully destroying Crown property'. The statement of offence does not disclose an offence under that sub-section for it does not aver that the Crown property had been entrusted to the accused.

25. *Charge should never be framed without reference to specimens.*—The framing of charges is not an easy matter and a charge should never be framed without reference to the specimens in the M. I. M. L., pages 336-346 and without reading the notes referring to the particular section of the Indian Army Act under which the charge is being framed.

26. *Time bar.*—The trial by court martial of most offences is barred after 3 years. I. A. A. Section 67.

PARTICULAR CHARGES—DIFFICULTIES TO AVOID.

(Notes to the particular Sections should invariably be consulted when framing charges.)

Sections 25 (*g*), 26 (*d*)—

27. *A Sentry found asleep* actually outside the limits of his post must be charged with quitting his post and not with sleeping on his post.

28.

29. A person who, though required to be present and on duty at some particular place between certain hours, is not required to be alert throughout his tour of duty, is not a sentry within the meaning of this section. Thus a man given the key to a bell-of-arms and required to be present to issue arms at any time they may be required during any particular day is not a sentry. A telephone orderly is not a sentry though he may be required to be present on a telephone between fixed hours.

30.

31.

Sections 27 (*d*), (*e*) *and* 28 (*a*). *Criminal Force, Assault and Disobedience.*

32. *Trial of offences under Sections* 27 (*d*), (*e*) *and* 28 (*a*).—The gravity of offences of using, or attempting to use force to, or assaulting or disobeying, a superior officer depend largely upon the circumstances—K. R. 648.

33. Cases have occurred where soldiers have been charged with one of these offences when the evidence disclosed that another of these offences has been committed. There have also been cases in which the statement of offence in the charge averred one of these offences, and the particulars disclosed another.

To use criminal force is to apply force, *however trifling,* to the persoon of another (or even the clothes which he is wearing) without that person's consent in order to commit an offence or intending or knowing it to be likely that injury, fefar or annoyance will be caused. (Indian Penal Code section 350). Thus to throw a stone at another, which hits him on the *saft;* to try and hit another in the face, but actually to hit him on the arm with which he parries the blow; or to strike the horse on which he is riding so that he is thrown; is in each case to use criminal force.

To attempt to use criminal force is to make an attempt *which is entirely unsuccessful.* Thus to throw a stone at another which misses him is to attempt to use criminal force.

To assault is to cause wilfully, by gesture or preparation, apprehension that criminal force will be used. (Indian Penal Code section 351). But the person making the preparation or gesture must be, or must apparently be, in a position to put it into effect. Thus a man who points a loaded rifle at another is guilty of

assault. He would also be guilty of assault if he pointed an unloaded rifle at another person, and that other person did not know that the rifle was not loaded. But a prisoner behind the bars of a cell who raised his fist or a stick at a person outside *whom he could not reach* would not be guilty of assault.

The conviction on a charge which alleges one of these offences when the facts in evidence prove another of them cannot be sustained.

The majority of cases are simple, and, provided the summary of evidence is adequate, present no difficulty. On rare occasions however some difficulty may arise. The dividing line between an attempt to use criminal force and assault, for example, is not always clear. Cases in which there is any difficulty are to be referred before trial to the Deputy- or Assistant-Judge-Advocate-General concerned.

34. Charges under section 27 (*d*) and (*e*) and 28 (*a*) postulate that the accused knew that the person to whom he used, or attempted to use, criminal force or whom he assaulted or disobeyed, or to whom he was insubordinate or insolent, was his superior officer. Evidence should invariably be given that the superior officer was wearing his badges of rank or was otherwise well known to the accused as his superior officer.

35.

Section 27 (e)—Disobedience.

36. *The particulars of a charge for disobedience* should contain the specified averment that the accused "did not obey" the order given. Refusal to obey does not necessarily involve non-compliance.

37. *"Lawful command".*—The following are not commands, the disobedience of which is punishable under this section:—

(*a*) An order, to a soldier under arrest, to work contrary to K. R. 566 (*b*).

(*b*) An order to a soldier, who has been excused duty after inoculation, to clean a Lewis gun.

(*c*) An order to undergo anything which might reasonably be called a "surgical operation."

38. *"Superior officer".*—When a non-commissioned officer is charged with disobeying the lawful command of a non-commissioned officer of the same rank, evidence of seniority is essential. Part II Orders or certified true copies of the sheet rolls of the non-commissioned officers in question should be produced.

39. *Opportunity to obey.*—When an accused was told to go on parade at some future time whereupon he said "I refuse I will go in the guard room" and was immediately placed under close arrest, he could not be charged under Section 27 (*e*), as, if he had not been in arrest, he might have obeyed the order. He should be charged under Section 28 (*a*) with the use of insubordinate language.

40.

41.

42.

Section 39 (*h*).—*Neglecting to obey orders*—

43. *Republication in regimental orders.*—It is desirable that any station order which affects the troops should be republished in unit orders. *K. R.* 84 *and* 1690. Where a station, etc., order is republished as a regimental order, the charge should be laid for disobeying the regimental order and evidence is required that the order was posted or otherwise brought to the notice of the accused.

44. *A certified true copy* of a regimental order is admissible in evidence under I. A. A., Section 91A (4), but squadron, battery, company, station, garrison, etc., orders must be produced in original. One of several printed or typed orders issued as originals is admissible as an original order, but care must be taken not to certify such an order as a true copy.

45.

46.

Section 29—Desertion. See R.A.I. Rule 367B and Inst. 437-439.

47. *Improper "transfer".*—A person who improperly 'transfers' from one branch of the service to an-

other does not ordinarily commit desertion, but fraudulent enrolment.

48. *The proceedings of a court of inquiry* on absence are inadmissible as evidence. The declaration of the court should be entered in the unit court-martial book, and the original proceedings should be destroyed. I. A. A. R. 159 (*C*). The declaration entered in the court-martial book is evidence under I. A. A., sub-section 91A (3), and a certified true copy under sub-section (4), is also admissible provided that the court was not held before the expiration of 60 clear days and that the other requisites laid down in section 126 are complied with. The declaration of the court, or a certified true copy thereof on I. A. F. D.-918, must be produced by a witness on oath and the accused must be identified as the person referred to therein.

An entry in Part II Orders is admissible in evidence to prove the commencement of the absence (when an accused is charged with desertion or absence without leave) subject to the following conditions:—

The entry must be one that is made in Regimental Orders in pursuance of military duty, and the orders must purport to be signed by the Commanding Officer, or by the Officer whose duty it is to make such record. Such an entry should only be used as evidence when no direct evidence and no declaration of a Court of Inquiry is available. It is only *prima facie* evidence and may be rebutted.

It is necessary that the accused should be identified as the person referred to in the entry.

49. *Certificate of apprehension and surrender.*—A letter or telegram from a police officer stating that an accused was apprehended by or surrendered to the police on a certain date is not evidence of these matters. But

a certificate on I. A. F. D-910 stating the fact, place and date of surrender or apprehension is admissible as evidence if it is signed by a police officer not below the rank of an officer in charge of a police station to whom the accused surrendered or by whom he was apprehended. *I. A. A. Section* 91*A* (6).

When the surrender was made to an officer or any portion of His Majesty's forces, a similar certificate signed by the proper officer is admissible. *I. A. A. Section* 91*A* (5).

50. *Plain Clothes.*—If on apprehension a soldier is "improperly dressed", but is wearing one or more articles of uniform, *e.g.*, a forage cap, which clearly serve to identify him as a soldier, it should not be averred in the particulars of the charge that he was "dressed in civilian clothes". The latter are such clothes as conceal his identity as a soldier and thus, perhaps, serve as evidence of his intention permanently to quit the service.

Section 30.—*Absence*—

51. *Proof of commencement and termination.*—It is essential to prove the commencement and termination of the absence. Absence terminates when a soldier is taken into custody or surrenders himself.

52. *Charges under sub-sections* 30 (*e*) (*f*) (*g*) (*h*) (*i*) *and* (*j*) should not ordinarily be preferred. Any offence under those sub-sections must almost invariably amount to an offence against sub-section 30 (*d*), and a charge under the latter sub-section is simpler to prove

53.

Section 31 (*h*).—*Voluntarily causing hurt with intent to render unfit for service.*

54. A medical witness, or witnesses, should gife evidence whether the injury or injuries sustained by the accused will render him unfit for further service. Information on this point will be a guide to the court ii determining a suitable sentence.

55.

Section 31.- *Theft, etc.*—

56. *Production of articles.*—Articles alleged to have been stolen, etc., must be produced in evidence and identified by a witness on oath or their absence must be accounted for and their identity otherwise proved. Unless this is done a conviction will, as a rule, be unsustainable.

57. *Alternative charges for "receiving"* should not be preferred unless there is something in the evidence to show that the accused might have received the articles in question and did not steal them. An essential element of receiving is theft by some person other than the accused.

Section 31 (*i*).—*Indecency*—

58. *Medical examination.*—Arrangements should be made in all cases of indecency and unnatural offences for medical examination of the accused as soon as possible after the report of the offence, subject to the consent of the accused, which should be obtained in the presence of a reliable witness. The accused should be warned that

any positive incriminating evidence so derived may be used against him but he should be made to understand that the examination is in his own interest if he is innocent.

Medical examination is not compulsory, and in the event of a soldier refusing to be medically examined evidence of this fact is not admissible at the trial.

59.

Section 35 (*c*)—*Losing by neglect*—

60. *Evidence of previous possession is essential.*—Where I. A. F. D-918 is produced, no further evidence is required unless the defence submits evidence rebutting that contained in I. A. F. D-918.

61. *The value of each item* must be stated in the charge and proved in evidence to enable the Court to award stoppages item by item.

62. *Stoppages.*—Estimation of value of articles having an official value. Attention is invited to note 11 to Indian Army Act, Section 50.

"The Vocabulary of Ordnance Stores (India)" fixes the price of such stores. "Priced Vocabulary of Clothing and Necessaries (India)" fixes the price of articles of clothing. "Stock Book Rate List of Centrally Purchased Articles of R. I. A. S. C. Supply" (free issue rates) fixes the value of such articles.

Stoppages for the loss of an article, which is not new, can be awarded for the part worn value only. A witness is, therefore, required to prove, if possible, the age of the articles and produce the regulation which shews the depreciation (if any) of such articles, *e.g.*, Equipment

Regulations for the Army in India, Part I, for Ordnance Stores, or Clothing Regulations for articles of clothing.

Where articles are issued new from regimental stores it is usually possible to produce a witness who can, of his own knowledge, state the fact and thus fix the age. Where, however, articles are not issued new by units, the age cannot generally be proved without calling witnesses from arsenals, etc. In such cases the part worn value of articles of Ordnance supply and public clothing should be assessed on a percentage basis. Attention is invited to paragraphs 179-180 of Regulations for the Equipment of the Army in India, Part I, 1933, and paragraph 139 of Clothing Regulations (India), 1939.

Stoppages for authorized departmental expenses may be awarded.

Where the value of an article differs in different regulations stoppages will be calculated at the lowest value.

Age cannot be proved by inadmissible evidence such as Army Forms which are not regimental books, and are not evidence of the facts recorded in them. Attention is invited to Indian Army Act, Section 91A (3) and (4), and Regulations for the Army in India, Instruction 516.

At the taking of the summary of evidence, a witness and at the trial a witness on oath, is required to produce original copies of the appropriate regulations together with extracts of the relevant passages. After comparison the officer taking the summary of evidence or the court, as the case may be, will certify that the extracts have been compared with the originals and are true extracts and will attach them to the summary of evidence or the proceedings.

Before an article can be shown to be deficient, it must be shown to have been in the possession of the accused at some previous time. This can be proved—

(*a*) by the witness who actually issued the article to the accused;

(*b*) by a witness on oath producing any receipt for the article and proving the signature of the accused;

(*c*) by verbal evidence that on a certain date the accused was in possession of the article, *e.g.*, at a kit inspection.

63.

64.

Section 37.—*False answer on enrolment*—

65. *Proof required.*—In proof of the answer given it is necessary to produce the original or duplicate enrolment paper. *I. A. A. Section* 91.

Where it is only necessary to prove the fact of enrolment a certified true copy of the attestation is admissible.

Section 38 (*c*).—*False Evidence*—

66. *Essentials.*—It is not sufficient to prove that the accused made a statement at the trial contrary to that made by him at the taking of the summary of evidence. It is necessary to prove—

(*a*) that the accused made the statement on oath, etc.,

(*b*) that it was false, and

(*c*) that he made it, knowing it to be false.

The evidence of one witness, without corroboration in some material respect, is sufficient to prove the falsehood of the matter sworn, but corroboration should be looked for. See notes 1 and 4 to Section 38 (*c*).

67.

Section 39 (*h*).—See paras. 43 and 44 above.

Section 39 (*i*).—*Act, etc., prejudicial to good order and military discipline*—

68. *Particulars capable of innocent construction.*— The particulars must describe an act, or omission, which appears from those particulars to be to the prejudice of good order and military discipline. It is not sufficient for the particulars to describe an act, etc., which, so far as the particulars go, might be quite innocent, and to rely upon the statement of the offence to show that it really was to the prejudice of good order and military discipline. Such a charge would be bad for vagueness, as the accused might not know in what manner the act, etc., was supposed to be prejudicial, and might thus be prejudiced in his defence. The following are illustrations of particulars which have necessitated the charge being quashed on account of vagueness:—

(*a*) "When acting as stableman was deficient of about one hundred pounds of grain, the property of Government."

In this case the deficiency might have been quite innocent. The particular neglect should be alleged; for example, that the accused neglected to lock up the grain bin, which it was his duty to do.

(*b*) "Was lying asleep on the side of the main road". To lie asleep on the side of the main road is no offence. The particulars must disclose some act, or omission, which is at least, *prima facie*, prejudicial to good order and military discipline.

(*c*) "Was in possession of a pair of boots, the property of Sepoy X."

(*d*) "Was found in the Band Boy's barrack-room clad in pyjamas, sitting on the bed of Boy Y."

(*e*) "At Peshawar about 2-15 a.m. fired a revolver in the compound of the V. C. Os. Club."

In these cases the particulars are capable of a perfectly innocent construction. In all such cases some

reason should have been averred to show that the act, etc., was prejudicial to good order and military discipline, *i.e.*, in an insubordinate manner, improperly, without authority, etc.

69.

70.

Section 41.—*Civil Offences.*

71. *A court-martial may try* any civil offence committed not on active service except murder or culpable homicide not amounting to murder of a person not subject to military law, and rape. (The excepted offences if committed at specified frontier posts could be tried by court-martial even if committed not on active service,

but no frontier posts have been specified for the purposes of this section). *I. A. A. Section* 41.

72. *A civil court and a court-martial* may both have jurisdiction in respect of the same offence. In that event the prescribed military authority may detain the accused person for trial, unless the civil court is of the opinion that the accused person should be tried before itself in which case the prescribed military authority must hand the accused over to civil custody or refer the case to the Central Government. For this purpose the prescribed military authority is the G. O. C.-in-C. the Command District Corps or Divisional Commander where a death has resulted from the alleged offence: in all other cases he is the station or brigade commander or other superior authority. I. A. A. Sections 69 and 70 and R. A. I. Rule 385

In the absence of any special reason for acting to the contrary a soldier charged by the civil authorities should be left for trial by civil court.

73. *Charges should be framed by Commanding Officer.*—A detailed description of most civil offences will be found in Ch. VI and there are specimen charges on pages 372-374 of the Manual of Indian Military Law. The Commanding Officer should make an effort to frame such charges, so that a proper summary of evidence can be taken even though charges for civil offences will generally be referred, by the convening officer, to an officer of the Judge Advocate-General's Department before trial.

74.

APPLICATION FOR TRIAL.—*Memoranda M.I.M.L., pp.* 402-405.

75. *Papers to accompany.*—The following papers should be forwarded to the headquarters of the formation under which the unit is serving:—

(*a*) Application for trial (A. F. B-116).

(*b*) Original summary of evidence and charge-sheet.

(*c*) *All* the original exhibits lightly marked in pencil with identification leters (M or L to Z and AA to ZZ). A list of the exhibits, if numerous, should be attached.

(*d*) With an application for a General Court-Martial 4 typed copies of the summary of evidence, 4 copies of the charge-sheet and 4 copies of, or extract from, all exhibits, marked in the same way as the originals.

(NOTE.—These copies are required for the convening officer, Deputy or Assistant Judge Advocate-General, Judge-Advocate and prosecutor. The prosecutor's copy will be returned to him with marginal remarks for guidance).

Each set should be tagged together.

(*e*) With an application for a district court martial, 3 typed copies of all the above documents are required.

(*f*) Typed copy or original of any court of inquiry.

(*g*) A letter in duplicate explaining any "inside" information about the case or any matter which is not clear from the summary of evidence, the absence of any witnesses or evidence, etc. The reasons why application is made for a general court martial should always be stated.

(*h*) Statement as to character. I. A. F. D-905 and regimental and company, etc., conduct sheets.

(*i*) Request by accused regarding his representation by an officer or counsel at the trial. I. A. A. R. 22 (A) and 81 and 82.

76. *Request or otherwise of accused for representation.*—The request or otherwise of the accused mentioned in para. 75 (*i*) above, should be submitted in the following form:—

"I, No. , Rank , Name propose to instruct counsel to appear on my behalf at my trial by court martial.

Date..... *Signature*.....".

or,

"I, No. , Rank , *Name*——— desire / do not desire to have an officer assigned to represent me at my trial by court martial. I desire the services of.....if he is available.

Date..... *Signature*.....".

NOTE.—If accused is not represented at the trial, his signed certificate to the effect that he does not wish to be represented, will be attached to the court martial proceedings).

EXAMINATION OF THE CASE BY THE CONVENING OFFICER.—*Memoranda M. I. M. L., pp.* 405-406.

77. *Important details.*—(*a*) It should be ascertained at once that all the papers set out in paragraph 75 are attached, particularly the exhibits.

(*b*) The charge-sheet and summary of evidence should be read through quickly to obtain a general view of the case.

(*c*) A detailed examination of the charge-sheet and charges should be made, having regard to the principles enumerated in paragraphs 12-73 above. The charges

should be redrafted if necessary. The redrafted charge-sheet need not be returned to the commanding officer for signature, if the application is being referred to the Deputy-Judge-Advocate-General for advice. Both the original and redrafted charge-sheets should accompany the application.

(*d*) A detailed examination of the summary of evidence should be made in accordance with paragraphs 1-8 above. It should be ascertained that there is evidence to support every averment in the charges. Irrelevant matter, hearsay, reports, etc., should be marked as not to be elicited at the trial. Any inadmissible matter prejudicial to the accused should be pasted over in the copy of summary of evidence to be laid before the court. The exhibits should be checked to ensure that all are attached, that they are properly marked in the top right hand corner lightly in pencil and that, whenever mentioned, the identification letter has been noted in the margin of the summary of evidence. When a witness mentions the accused, an exhibit, etc., for the first time, it should be recorded that he identifies the accused and the exhibits, etc. When a document such as the declaration of a court of inquiry is produced the accused must be identified as the person referred to therein. Handwriting of the accused, particularly signatures, when relevant, must be specifically identified.

(*e*) When some essential evidence is not contained in the summary of evidence, it should be ascertained from the unit, by telephone if possible, whether such evidence is in existence and can be procured. If the case is referred to higher authority or the Judge Advocate-General's Department, the purport of this evidence should be stated in the covering letter. The retaking of the summary of evidence should not be ordered if it can be avoided and is only necessary where the first sumary is so badly re-

corded and defective as to be dangerous. An additional summary of evidence should be ordered where several essential matters have been omitted from the first summary or where it is doubtful as to the actual evidence the witnesses will give. The accused must be warned of any material evidence, which it is proposed to elicit at the trial and which is not contained in the summary.

78. *King's evidence and accomplices.*—If in any case two or more persons are suspected of complicity in an offence, and it is found necessary to call one of these as a witness for the prosecution against the other or others charged in connection with the offence, one of two courses must be taken. Either—

(*i*) Proceedings against him must be abandoned and any charge therein already preferred against him dismissed; or

(*ii*) Steps must be taken to ensure that the case against him is disposed of summarily or tried by court martial *before* the trial of persons concerned against whom he is to give evidence; and that he is only tendered as a witness when he has already been acquitted or convicted.

In all such cases the circumstances and the course proposed should be fully set out in a covering letter to the convening officer.

REQUEST FOR ADVICE TO OFFICERS OF THE JUDGE ADVOCATE GENERAL'S DEPARTMENT.

79. *Summary of evidence and charge-sheet to be reasonably complete.*—Officers of the Adjutant General's Branch of the staff at the headquarters of formations will ensure that a summary of evidence and charge-sheet are reasonably complete and in order before being forwarded to the Judge Advocate-General's Department for advice.

80. *Position of officers of Judge-Advocate-General's Department at Commands.*—Officers of the Judge-Advocate-General's Department at Commands are the legal advisers in matters of military law of the General Officers Commanding-in-Chief the Commands and of the Officers Commanding Districts and their staffs. All officers who hold warrants empowering them to convene and confirm courts-martial are entitled to their advice.

81. *Preliminary advice in complicated cases.*—The advice of the appropriate officer of the Judge-Advocate-General's Department (hereinafter referred to as the Deputy-Judge-Advocate-General) should be sought in those cases mentioned in R A.I., Instruction 419, and in all cases where doubt or difficulty is experienced. In complicated cases where the convening officer experiences difficulty in assisting a commanding officer with regard to investigation or to the taking of a summary of evidence, much subsequent delay will often be avoided if the Deputy-Judge Advocate-General is consulted at an early stage. It may be expedient for the officer, detailed to record the summary of evidence and to prosecute, to be directed to take the whole case, including the proceedings of the court of inquiry, if any, and all original exhibits, to the Deputy Judge-Advocate-General. A previous appointment should be made and the officer detailed should be accompanied by a staff officer or, at least, be thoroughly conversant with the convening officer's views on the case.

82. *Direct communications.*—To avoid unnecessary delays in all cases all communications will be directly between the convening officer and the commanding officer of the accused's unit, copies of communications being sent to any intermediate commander for information.

83. *Deputy-Judge-Advocate-General to be placed in possession of all known information.*—To enable a

Deputy-Judge-Advocate-General to advise effectively it is essential that he be placed in possession of all known information, which bears on the case. If there is any local or technical knowledge necessary to a clear understanding of the reference, an explanation should be attached, together with necessary books, etc. To ensure that such matters are not overlooked the application for advice should be in the form shewn in Appendix "B".

The application should state specifically the matters on which advice is required and/or the questions on which doubt or difficulties are being experienced.

84. *Reports on application and after trial* are furnished in duplicate. One copy is to be returned, for the information of higher reviewing authorities, to the Deputy-Judge-Advocate-General normally within three days of receipt, by the officer to whom they are addressed, with an endorsement showing the action taken, or to be taken, and any other remarks which the officer wishes to make. As one object of these reports is to prevent the repetition of similar mistakes in the future, the fact that the errors noted have been pointed out to all concerned and the action taken to eliminate such mistakes in the future should be endorsed on the report. A covering memorandum is not necessary. The other copy of the report should be retained for future guidance.

85. *Confidential nature of reports.*—The reports by the Deputy-Judge-Advocate-General on applications for trial and on trial are confidential and are only for the information of convening, confirming and reviewing authorities and their responsible staff officers. Should such authorities accept the views set forth therein, they should in communicating them to subordinate commanders adopt them as their own and make no allusion to their having emanated from an officer of the Judge Advocate-General's Department.

86. *Correspondence.*—To avoid delay correspondnce intended for the Deputy-Judge-Advocate-General should be addressed to that officer and not to the headquarters of the Command.

87. *If case submitted to Deputy-Judge-Advocate-General for advice.*—If the case has been submitted to the Deputy-Judge-Advocate-General for advice before trial, ensure that the charges preferred against the accused are the same as those advised by that officer. Where such advice has been given, no alteration in or addition to the charges should be made without reference to the Deputy Judge Advocate-General concerned.

THE ENDORSEMENT OF THE CHARGE-SHEET.

88. *The proper court.*—It wastes time, and lowers the dignity of that tribunal, to assemble a general court martial if, in case of conviction, the probable and adequate sentence would not exceed two years' imprisonment with hard labour which a district court martial can award (except to warrant officers). *A district court martial, therefore, is usually the proper Court;* and general courts martial should be reserved for the trial of officers, warrant officers (if a conviction would merit at least imprisonment), and the gravest crimes. In the case of officers below field rank and warrant officers, the question of summary disposal under I. A. A., Section 20, read with R. A. I. Instr. 406 should be considered.

89. *The order for trial* (M. I. M. L., p. 347), specifying the description of court, *e.g.*, general or district, should be entered at the foot of the charge-sheet (or sheets), as finally approved by the convening officer and signed by him or by a staff officer "for" him.

90.

THE COMPOSITION OF COURTS-MARTIAL AND THE ISSUE OF THE CONVENING ORDER.—*M. I. M. L., pp.* 405-406.

I. A. A., Sections 57-60 *and I. A. A. Rs.* 27, 29, *and* 30.

91. *Matters to observe particularly*:—

(*a*) Whether accused is subject to military law, *I. A. A. R.* 32 (*A*) (*i*).

(*b*) Whether there was a previous trial in respect of the same facts. *I. A. A. R.* 43 (*A*) (*I*).

(*c*) Whether there has been a court of inquiry, *I. A. A. R.* 29 (*B*) (*iii*).

(*d*) Whether any special certificates are necessary. *I. A. A. R.* 30 *and note.*

(*e*) The date of commission of junior member, *I. A. A. R.* 29 (*C*).

(*f*) If a member belongs to the same unit as accused or is or has been stationed at the place where the alleged offence took place, that such member has no interest in the case nor has in any way been connected with the investigation, etc. *I. A. A. R.* 29 (*B*) (*iii*) *and* (*v*) *and Notes* (*B*) 1 *and* 2.

(*g*) That any officer who has been the commanding officer of the accused at any time between the date on which the charge is made and the date of trial inclusive, is disqualified to sit on the court. *I. A. A. R.* 29 (*B*) (*IV*).

(*h*) That courts martial are Army Courts and officers must be detailed and take precedence by army rank, *i.e.*, a Captain and Bt. Major sits as Major and cannot sit as a Captain.

92. *A judge-advocate* is a legal necessity at a general court-martial and may be appointed at a district court-martial. A judge-advocate will usually be appointed in all cases of indecency tried by district court-martial but, if the evidence is such that the convening officer considers the appointment of a judge-advocate to be unnecessary, he should express his views to that effect when referring the case for the advice of the Deputy- or Assistant-Judge-Advocate-General. When an officer of the Judge-Advocate-General's Department is appointed judge-advocate at a trial, it should be ascertained, before fixing the date of trial, that it will be possible for the officer to attend on that date.

93. *The prosecutor* should be appointed in the convening order.

94. *An interpreter,* if necessary, should be detailed in the convening order.

95. *The units* of corps such as R. A., R. I. E., R. I. A. S. C., must be specified or the officers detailed by name.

96. *Free from erasures.*—Convening orders should be carefully checked and should be free from erasures, alterations and blanks. If alterations are necessary a fresh convening order should be issued. *K. R.* 673 (*b*).

97. *Signature.*—Convening orders must be signed by the convening officer, by a staff officer for him or by a staff officer as such. They must not be signed *for* a staff officer. The absence of a properly signed convening order is a fatal flaw. *Note* 4 *to I. A. A. R.* 31.

98.

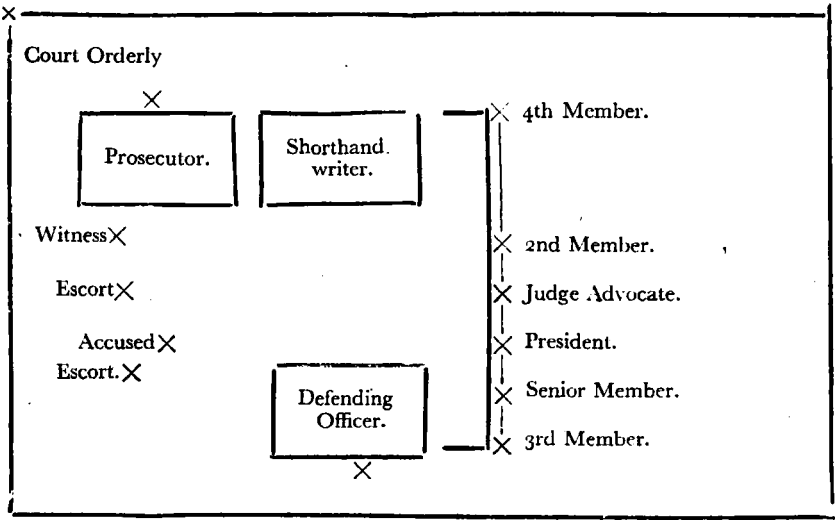
99.

THE TRIAL.—THE DUTIES OF THE PRESIDENT. —*M. I. M. L., P.* 377.

100. *Proper conduct of the trial.*—The president is responsible for the trial being conducted in proper order in accordance with the provisions of the Indian Army Act and (I. A. A. Rules) and in manner befitting the dignity of a court of justice. He should be careful to unhold the dignity of the court and the solemnity of its proceedings. *I. A. A. R.* 65 (*A*). The powers of the court in this respect will be found in *I. A. A. Section* 38 *and I. A. A. R.* 136.

101. *Duty to accused.*—It is the duty of the president to ensure that the accused, particularly when he is not represented by counsel or a defending officer, is not prejudiced in his defence through ignorance, embarrassment, or inability to state his case clearly or examine witnesses. *I. A. A. R.* 65 (*B*) *and Note* (*B*).

102. *The arrangement of the court room.*—There is nothing stated in the I.A A.R. but the following seating arrangement has been found convenient in practice:—



103. *Responsibility for correctness of the proceedings.*—Where there is no judge advocate the president is responsible for the accuracy of the record and that it represents correctly the transactions of the court. *I. A. A. R.* 78.

104. *Method of recording proceedings.*—The proceedings of a general court martial, should be typed. The proceedings of a district court martial should be typed, if possible. In the absence of shorthand typists (*I. A. A. R.* 127 (*E*)) a satisfactory method is to record the evidence roughly in pencil and after complying with

I. A. A. R. 127 (*B*), to have the pencil draft typed outside. The judge advocate, or president where there is no judge advocate, is responsible that the typed copy represents the evidence as recorded.

105.

106. *The assembly of the court.*—The president, members, waiting members and officers under instruction assemble in closed court. The convening order, charge-sheet and the summary of evidence are laid before the court. These papers are sent to the president before the assembly of the Court, in order that he may make himself thoroughly conversant with the facts of the case and be able to refresh his memory on the law by reference to the Manual, particularly the notes to the Sections under which the charges are framed. The proceedings of the court of inquiry should not be sent to the president or laid before the court, though the president must be informed of the names of the officers who sat on any court of inquiry respecting the matter on which the charges are founded. *See* form of certificate on *pp.* 377-378 *M. I. M. L.*

107. *The detail of the court.*—The names and units of the president and members should be entered on page "A" in exactly the same form as in the convening order. The court have no power to alter the convening order.

108. *Examination of constitution of court and legality of charge-sheet.*—The Court proceed as detailed in I. A. A. R. 31 and 32. In this connection it should be noted that a conviction on a legally bad charge is unsustainable even on a plea of guilty.

109. *The opening of the court.*—The court is opened and the prosecutor, counsel or defending officer, interpreter and shorthand writer enter and the accused is brought before the court under escort.

110. *Counsel.*—Counsel appearing before a court martial must be qualified in accordance with I. A. A. R. 87 (B) and his qualifications should be entered in the proceedings. His conduct is regulated by I. A. A. R. 86. He should be robed in accordance with the custom of the profession.

111. *Method of addressing the court.*—Any person addressing the court or examining or cross-examining a witness, should always do so standing. The judge advocate may deliver his summing-up seated. When the evidence of a witness is long, it is generally advisable to allow him to give his evidence sitting.

112. *The oath.*—The president administers the oath to the members of the court, where there is no judge advocate. *I. A. A. R.* 37. The person taking the oath reads, repeats or recites it in the first person. The forms of oath will be found on I. A. A. R. 35 and 36.

113. *Objection to interpreter.*—The accused must be given the opportunity to object to the interpreter before the latter is sworn. *I. A. A. R.* 76 (*C*).

114. *Arraignment.*—The president, where there is no judge advocate conducts the arraignment *M. I. M. L., Chap. IV, para.* 38, *I. A. A. R.* 38, *Note* 1. The accused's plea to a charge must be taken before any subsequent charge (whether alternative or not) is read to him (I. A. A. R. 38 (B)).

A plea of "guilty" or "not guilty" must be recorded on each charge, including alternative charges. To record "yes" or "no" as a plea is, having regard to the question put, unintelligible.

115. *Plea of insanity.*—In cases where British or Indian ranks are arraigned before a court-martial on a capital charge, and insanity is pleaded on their behalf the accused will be examined by two specialists in mental diseases one of whom may be a civilian or an officer of the Indian Medical Service in civil employ. If it appears during the investigation of such cases that a defence of insanity is likely to be raised the examination will be carried out BEFORE trial. R. A. I. Rule 366.

116. *Separate charge-sheets.*—Where the convening officer has preferred separate charge-sheets or where the claim of the accused to have the charges tried separately is allowed (I. A. A. R. 68 (E)) the trial on each charge-sheet from arraignment to finding (I. A. A. R. 51) inclusive, will be kept separate and distinct. The evidence given at the trial on one charge-sheet is not admissible on the trial of another charge-sheet unless given again. Except for the preliminary proceedings and the sentence, the procedure on each charge-sheet, in effect, constitutes a separate trial.

117.

118. *Joint trials.*—M. I. M. L., Chap. VI, paras. 11-15.—(*a*) Where two or more persons are concerned together in the commission of a crime they should be charged and tried jointly subject to their right to claim separate trials under I. A. A. R. 24.

(*b*) Joint trial should invariably be ordered where offences such as assault, theft, burglary, indecency, etc., are committed jointly. If the men belong to different units they should be attached to one unit for trial.

(*c*) The following offences cannot be tried jointly—

(*i*) *Section* 26 (*d*)—Being sentries quitting their (separate) posts. Separate offences of the same kind are committed in that one sentry leaves one post, and another sentry leaves another post.

(*ii*) *Section* 35 (*e*)—Losing by neglect their arms. The essence of the offence is that each man lost his own arm. Such an offence is distinct and cannot be committed collectively.

(*d*) Unless accused are charged jointly, *i.e.*, in the same charge-sheet, there is no jurisdiction to try them jointly even at their request. If the court tries jointly accused charged separately the trial is void *ab initio*.

(*e*) For the form of description of accused in a joint charge-sheet, see specimen charges Nos 14 and 15 on p. 352 of the M. I. M. L.

(*f*) It is possible in a joint charge-sheet to frame, for example, one joint charge of house-breaking against all the accused and in the same charge-sheet to frame separate charges against each accused for other offences committed by them separately. The record in the margin of the charges would be as follows:—

First charge.

Sec. 41.

Indian Army Act.

Against all
the accused
Second charge.
Sec. 27 (*e*).
Indian Army Act.
Against Sep. A.
only.
Third charge.
Sec. 31 (*d*).
Indian Army Act.
Against.
Sep. B and
Sep. C.
only.

(*g*) Separate trial may be claimed only on the ground that the evidence of one or more of the accused proposed to be tried together with him will be material to his defence. The reason underlying this rule is that a co-accused cannot give evidence. *M. I. M. L., Chap. V, paras.* 86 *and* 89.

(*h*) Where accused claim separate trials and the claim is allowed they are nevertheless tried separately on the joint charge-sheet, a copy of which should be attached to the proceedings of each trial.

(*i*) In joint trials the plea of each accused will be recorded separately. If one accused pleads "guilty" and another "not guilty" the trial of the latter, up to and including the finding, must be carried out before the court deal with the case of the accused who has pleaded "guilty".

(*j*) The procedure in joint trials is exactly the same as in the trial of a single accused except:—

(*i*) Each accused has the separate right of:—

Challenge. *I. A. A. R.* 34.

Being arraigned. *I. A. A. R.* 38, *Note* 1.

Pleading. *I. A. A. R.* 24.

Cross-examination.

Calling witnesses in his defence and making his own defence. *I. A. A. R.* 67.

(*ii*) The record on the proceedings must show that every question has been addressed to each accused separately and their answers must be separately recorded. *M. I. M. L., p.* 407, *para.* 28.

(*iii*) Separate sheets E and F., for the finding and sentence must be used in the case of each accused.

(*k*) When two or more accused are convicted of a joint offence, each should be awarded stoppages for the full amount of the expenses, loss or damage occasioned by that offence whether such accused are tried jointly or separately. *I. A. A., Sec.* 50, *Note* 16.

119. *Refusal to plead.*—If the accused stands mute, or refuses to plead, a plea of "not guilty" should be entered and the trial proceed accordingly.

120. *Plea of guilty.*—Before recording a plea of "guilty" comply conscientiously and thoroughly with the provisions of *I. A. A. R.* 42 (*B*) *and Note* 2.

121. *Statement in mitigation.*—Even if I. A. A. R. 42 (B) is complied with the accused may still indicate in his statement in mitigation that he did not really understand the effect of his plea of "guilty" *I. A. A. R.*

44 (*D*). If there is the slightest doubt, the court should record a plea of "not guilty" and try out the case as if the accused had pleaded "not guilty".

The following are statements in mitigation made by an accused, which are inconsistent with the plea, and if the court fail to try out the case the finding will not be confirmed or the proceedings will be quashed:—

(*a*) *Section* 27 (*d*).—Using criminal force—'I was drunk and did not know what I was doing'.

(*b*) *Section* 27 (*d*).—Using criminal force—'I may have struck him but was completely unconscious of the fact'.

(*c*) *Section* 27 (*d*).—Using criminal force—'I was acting in self-defence'.

(*d*) *Section* 29.—Desertion—'I was unable to return through illness'.

(*e*) *Section* 31.—Theft of Crown property—'I did not intend to cause the Government loss'.

The test in deciding whether a statement in mitigation is inconsistent with a plea of "guilty" is not whether the court believe the statement, but whether, if true, it would have afforded a defence to the charge.

122. *Witness's religion.*—The religion of witnesses should be stated. Christians and Sikhs are sworn, others are affirmed. Evidence given in the vernacular must be given through a sworn or affirmed interpreter. If given in English, the fact should be stated. The fact that witnesses are sworn or affirmed must be recorded. *I. A. A., Section* 83, *I. A. A. R.* 126 *and M. I. M. L., third Appendix, p.* 382.

123. *Questions by court to witnesses.*—The president should always put to the witnesses any questions

which appear to him necessary or desirable for the purpose of eliciting the truth. (*I. A. A. R.* 128 *and* 129 (*D*).)

Questions by the court, except to clear up ambiguities, should generally be reserved until the conclusion of the re-examination of the witness.

124. *Recalcitrant witnesses.*—*See I. A. A., Section* 38 *and I. A. A. R.* 136.—Extreme measures are seldom necessary. If the president reminds a witness of the wording and obligation of the oath he has taken, that his duty as a citizen concerned in the administration of justice comes before his duty to a friend and adjourns the court for 5 minutes to allow the witness to think over the matter it will be found generally that a witness will speak the truth and the whole truth.

125. *Closing of court.*—The president may cause the court to be cleared (*i.e.*, closed) to enable the members to deliberate upon and decide any submission made or objection taken, or any other question which may arise. (*See I. A. A. R.* 69 (*A*)).

126. *Adjournment to view.*—The president will ensure, when the court adjourns to view any place or thing, that the view is in open court. The fact must be recorded in the proceedings that the view was in the presence of the president, all the members, judge advocate, prosecutor, defending officer, or counsel, the accused and the witness, if any, explaining the evidence. *I. A. A. R.* 69 (*B*).

127. *Adjournments* for lunch or other short periods need not be recorded. If recorded, they must be in the correct form, particularly with regard to the presence of all members, etc., on re-assembly. *M. I. M. L., third appendix, p.* 383.

128. *Evidence generally.*—Attention is invited to M. I. M. L., Chap. V and to I. A. A., sections 88, 89, 90, 91, 91A and 92 and to the Notes thereto.

129. *Confessions.*—A confession to be relevant, and therefore admissible as evidence, must be voluntary. It is irrelevant if it appears to a court to have been made as the result of any inducement, threat or promise having reference to the charge and proceeding from a person in authority. Indian Evidence Act, Section 24, M. I. M. L., p. 627. Indian law, unlike English, does not require the prosecutor to prove affirmatively that a confession was made voluntarily before he tenders evidence of it. Nevertheless at a trial before court-martial the prosecutor should so far as he is able prove the circumstances in which a confession was made so that the court may decide whether or not it was voluntarily made.

130. *A confession, even if voluntary,* made to a police officer may not be proved against an accused person, nor may a confession made by an accused person while he was in the custody of a police officer be proved, unless the confession was made in the immediate presence of a magistrate. The expression 'police officer' includes any member of the service police. If therefore it appears that a person in the custody of the service police is about to make a voluntary confession, immediate steps should be taken to remove him from such custody and to bring him before an officer, not connected with the service police, so that he may make his confession or other statement.

131. *Written confessions.*—M. I. M. L., Chap. V, para. 34, states that the whole of a confession must be given in evidence and not merely the parts disadvantageous to the accused. Nevertheless, if a written confession contains any matter irrelevant to the charge and prejudicial to the accused, such inadmissible portions or

portion of the confession should not be read or brought to the notice of the court.

132. *Cross-examination and re-examination.*—In cross-examination, leading questions and questions not directly bearing on the issue may be put. Re-examination must be confined to matters referred to in cross-examination. *M. I. M. L., Chap. V, paras.* 107-117.

Where cross-examination or re-examination has been declined, the fact must be recorded.

133.

134. *Exhibits must be properly "put in".*—Exhibits must be properly "put in", *i.e.,* produced by a witness on oath and identified as what they purport to be *M. I. M. L., Chap. V, para.* 101 (*f*) *and Note* (*j*). In some cases, further evidence is required to prove that the accused is the person referred to therein or that the handwriting or signature is that of the accused.

135. *Certified copies.*—Where certified copies of documents are admissible in evidence, (I. A. A., section 91A (3) and (4)) the copy must bear the name of the commanding or other officer whose duty it was to make the original record.

136.

137. *Marking of exhibits.*—The convening order is always to be marked "K" and the remaining addresses or documentary exhibits L, M, N, etc., to Z and thereafter "AA" to "ZZ" in the order in which they are produced to the Court. All documentary exhibits will be marked in the top right hand corner. Examples of recording are as follows:—

(*a*) "I produce in original the receipt for Rs. 15 given to me by Sepoy 'A', whom I identify as the accused before the Court, for the watch he sold me. I produce and identify the watch, I identify accused's signature on the receipt made by him in my presence." (The receipt is read, marked "L" signed by the president and attached to the proceedings.

(*b*) "I produce certified true copy of Regimental Orders placing the city out of bounds to all officers, N. C. Os. and men of the 2|50 Punjab Regiment." (Copy is read, marked "M", signed by the president and attached to the proceedings).

(*c*) "I produce an original copy of R. A. I. Instructions together with an extract of para. . . . . ." (Extract is read, compared by the court with original, found correct, marked "N", signed by the president and attached to the proceedings.)

138. *Identification letter to be shown in margin of proceedings.*—Whenever a documentary exhibit is mentioned in evidence, the identification letter is to be shewn in the margin. The identification letter of an exhibit to which the witness is referring will also be mentioned in the text of his evidence, *e.g.*, "I identify the Pay and Mess books before the court "O" (Exh. O) . . . ."

139. *Exhibits to be attached in original.*—Normally exhibits will be attached in original. *K. R.* 679. Where, however, the original exhibit is required for other purposes and cannot be attached permanently to the proceedings, the original must be replaced by a copy or extract and the fact will be recorded in the proceedings as follows:—

"Original exhibit 'O' is required for regimental records and will be returned to the witness (or prosecutor) at the end of the trial or after perusal by the confirming officer. The court compare a copy (or relevant extract) with the original copy of 'O' certified correct by the president, marked 'O' and attached to the proceedings."

Before the close of the trial the president will ascertain from the prosecutor and defence whether there is any objection to any of the exhibits being permanently attached in original to the proceedings.

(*d*) Voting on the finding. *M. I. M. L., Chap. IV, para.* 65.

(*e*) Special findings. *I. A. A., Section* 86 *and I. A. A. R.* 51 (*D*).

(*f*) On a plea of guilty a court may record a special finding only in the circumstances set out in *I. A. A. R.* 51 (*H*).

(*g*) Under I. A. A. R. 51 (C), the court can refer to the convening officer only on questions of law and not on questions of fact. *See Note* (*C*).

(*h*) Recommendation to mercy must not be inconsistent with the finding, *e.g.,* on a charge of striking his superior officer a recommendation on the grounds that owing to his drunken condition he might not have known that the man he struck was his superior officer. Such an expression of doubt on the justice of the finding necessitated "non-confirmation" of the proceedings.

(*i*) Insert the full description of the accused as entered in the charge-sheet.

146. (*a*) *An acquittal* under the Indian Army Act requires confirmation (I. A. A., Section 94 and 98(1) (*b*)) and a finding of not guilty is not therefore announced in open court.

(*b*) Honourable acquittal. *See* Note 2 to I. A. A. R. 51.

147. *Evidence of character on conviction.*—(*a*) I. A. F. D-905 must be prepared up to the date it is handed in to the court.

(*b*) The offences during the last 12 months must be included in the total offences since enlistment.

(*c*) The schedule must be signed by the prescribed officer and not by an officer "for" him. Unless properly signed, it is not admissible in evidence.

(*d*) The dates of previous trials by court-martial must be carefully checked. It is erroneous to enter the date of the offence.

(*e*) Where previous trials or convictions have been annulled, no mention thereof must appear in the schedule.

(*f*) The entries must disclose offences under the Indian Army Act, *I. A. A. R.* 15, *Note* (*B*) 1.

148. *Sentence.*—(*a*) *Allowed by law.*—Must be one of the punishments allowed by the Act. *I. A. A., Section* 43.

Such punishments are legally limited by:—

(*i*) The power of the court. *I. A. A., Sections* 72 *and* 73.

(*ii*) The *rank of the offender. I. A. A., Section* 43.

(*iii*) The particular section under which the charge is laid, *e.g., I. A. A., Sections* 26, 31, *etc.*

(*b*) *Guiding factors.*—Regard must be had to the provisions in *K. R.* 681.

(*c*) *Form* of the sentence should be in one of the forms set out in *M. I. M. L., third appendix, pp.* 388-390. The full description of the accused, as given in the charge-sheet, must be entered.

(*d*) *Simple Imprisonment.*—Such a sentence can very seldom be applicable, and should never be awarded on purely medical grounds. It is inconvenient to execute.

(*e*) Reduction—

(*i*) reduction must be to a definite rank (see R. A. I., Rule 201), and not to an appointment.

140. *Custody of exhibits during trial.*—Where exhibits are numerous, it will be found convenient to make one member of the court responsible for their systematic arrangement and safe custody, until close of the trial. This member should ensure that all exhibits shewn to the prosecutor or defending officer and witnesses are returned to him.

141.

142.

143. *Addresses for prosecution and defence.*—Attention is invited to I. A. A. R. 47 and 48. It is essential that addresses be given in the right order, otherwise the annulment of the proceedings may be necessary, if

the accused might have been prejudiced through this error.

Where the making of an address is declined the fact must be recorded in the proceedings. Failure to do so requires a subsequent certificate.

Addresses may be in writing (*Note* 8 *to I. A. A. R.* 47) and where the proceedings are in duplicate, two copies of the addresses are required. Counsel should be warned of this fact at the commencement of the trial. Where written addresses are not produced, it shall not be necessary to record the addresses, except as stated in *I. A. A. R.* 78 (*D*). In practice, it is generally advisable to record the material portions of any address made.

144. *Summing up by Judge-Advocate.*—If a judge-advocate has been appointed and he and the court consider that a summing up is necessary, it is the duty of the president to adjourn, if the judge-advocate requires time for the preparation of his summing up. It is essential that as much time for this preparation as the judge advocate requires should be given him and on no account whatsoever is he to be hurried.

145. *The finding.*—(*a*) The deliberation must be in closed court, *i.e.*, court, judge-advocate and officers under instruction alone being present.

(*b*) With a few exceptions, a conviction may rest legally on the uncorroborated testimony of one credible witness. *M. I. M. L., Chap. V, para.* 90.

(*c*) A finding must be recorded on every charge including alternative charges. An accused can be convicted of one only of several charges laid in the alternative, necessitating a finding of "not guilty" on the remainder. He can, however, be acquitted of all charges laid in the alternative.

In the case of an N. C. O. holding an appointment, but not qualified to be a 'duty' N. C. O., if there is no lower rank carrying the appointment for which he is solely qualified, reduction should usually be to the ranks.

(*ii*) the word 'grade' where used in I. A. A., sec. 43 (*f*), has the same meaning as rank. A court-martial cannot therefore reduce an N. C. O. from one administrative grade to another, *e.g.*, it cannot reduce a Havildar Clerk, grade I, to Havildar Clerk, grade II.

(*f*) *Award of stoppages.*—No sentence of stoppages can legally be passed in respect of any article, or in respect of any expenses, loss, or damage occasioned by the accused's offence *unless* the value of the article or the amount of the expenses, loss, etc., is stated in the particulars of the charge and proved in evidence. *See I. A. A., Section* 50 *and I. A. A. R.*, 20 (*F*) *and note* (*F*).

Stoppages should *not* be awarded in respect of articles of necessaries and personal clothing. *K. R., para.* 656.

(*g*) *Death sentence.*—Shall not be passed without the concurrence of two-thirds, at least, of the officers serving on the court. *I. A. A. Sec.* 87. The president has no second or casting vote on a sentence of death. *I. A. A. R.* 73, *Note* 2.

(*h*) *Sentences on officers.*—Forfeiture of seniority and service for promotion.

A sentence of forfeiture of seniority of rank is not appropriate in the case of officers whose promotion depends upon length of service. Where it is desired to award punishment with the object of retarding any such officer's advancement in rank, the sentence should ordinarily take the form of forfeiture of service for the purposes of promotion. This would not, however,

preclude a court-martial from awarding the punishment of forfeiture of seniority of rank in the form of sentencing an officer to take precedence in the rank held by him in his corps as if his name had appeared a specified number of places lower in the list of his corps, in cases where the forfeiture of even one day's service for purposes of promotion might in its effect constitute too severe punishment for the offences which nevertheless would not be adequately met by a severe reprimand. *I. A. A., Section* 43, *Note* 7.

(*i*) The signature of the president on the sentence page authenticates the whole of the proceedings. It is essential that the sentence be dated. *I. A. A. R.* 56, *Note* 1.

149. *Recommendation to mercy.—See I. A. A. R.* 55 *and M. I. M. L., Chap. IV, para.* 76.

150.

151. *Arrangement of proceedings.*—The proceedings should be put together in the following order and fastened together in the top left hand corner by a tag, tape or string:—

On Plea of "Not Guilty".	Pleas of "Not Guilty" and "Guilty".	Plea of "Guilty" only.
Pages A and B ...	Pages A and B ...	Pages A and B.
Charge-sheet B^2 ...	Charge-sheet B^2 ...	Charge-sheet B^2
Pages C and C^2 ...	Pages C and C^2 ...	Pages CC and DD.
Prosecution Evidence ...	Prosecution Evidence. ...	Pages E and F
Pages D and D^2 ...	Pages D and D^2..	Revision page (if any).
Defence Evidence ...	Defence Evidence ...	Convening order "K".
Pages E and F ...	Pages CC and DD ...	Summary of Evidence.
Revision Page J (if any). ...	Pages E and F ...	Exhibits.
Convening "K" ...	Revision Page J (if any).	I.A. F. D. 905 (A. F. F. 296)
Exhibits "L" "M", etc.,	Convening order "K" ...	Back Docket Sheet (I. A. F. D. (909)
I. A. F. D. 905 (A F.F. 296) ...	Exhibits "L", "M", etc. ...	
(Back Docket Sheet I.A.F. D-909) ...	Summary, of evidence I. A. F. D. 905. (A.F.F. 296)	
Summary of Evidence enclosed but detached	Back Docket Sheet (I. A. F. D-909) ...	

NOTES.—(*a*) Medical certificate (K. R. 676) should not be forwarded.

(*b*) If the proceedings are received in any office, arranged otherwise than as above, they will be placed in order before being dealt with or forwarded to any other office

152. *Finally check* that:

All pages of proceedings are numbered.

All questions and answers are numbered.

All material alterations are initialled.

All exhibits are attached or accounted for.

All exhibits are signed by the president.

All witnesses have been sworn or affirmed and the fact recorded.

I. A. A. R. 127 (B) has been complied with and the fact recorded.

153.

154.

THE TRIAL—THE DUTIES OF THE PROSECUTOR. *See Generally I. A. A. R.* 66 *and Note* 2.

155. *Selection of prosecutor.*—He should be an officer who has a thorough knowledge of the case and what is behind it, otherwise he will not be in a position to cross-examine witnesses effectively, if necessary. A member of a court of inquiry or an officer who was present at the preliminary proceedings and has recorded the summary of evidence should preferably be detailed. In a long or difficult case, he should usually be struck off other duties.

156. *Duties before trial.*

(*a*) Obtain copy of convening order, charge-sheet, summary of evidence, court of inquiry proceedings (if any) and any relevant correspondence on the case.

(*b*) Bring to notice, at once, any suspected irregularity or legal defect in the above papers

(*c*) Ensure that the various rules relating to procedure before trial have been complied with, particularly *I. A. A. R.* 22 *and* 23, and, in the case of joint trials, *I. A. A. R.* 24.

(*d*) Arrange for the attendance of all necessary witnesses.

(*e*) Ensure that all exhibits will be forthcoming.

(*f*) Obtain from the medical officer each morning of the trial, a certificate that the accused has been medically examined. *K. R.* 676. This certificate need not be attached to or enclosed with the proceedings.

(*g*) Prepare I. A. F. D-905. *See para.* 147 above.

157. *Duties at the trial.*—(*a*) *Medical Certificate.*—On the opening of the court, the prosecutor enters, presents the medical certificate to the president (*see* 156 (*f*) above) and having ascertained that the court are ready, directs the court orderly to march in the accused, escort, and witnesses. (Counsel or defending officer enters with the prosecutor).

(*b*) *Court of inquiry.*—If a court of inquiry has been held respecting a matter upon which a charge against the accused is founded, the prosecutor should hand to the court a list of the names of the officers who sat on the court of inquiry. The written record of the proceedings of such court of inquiry must not be laid before the court martial. *M. I. M. L., third appendix, p.* 377 note

(*c*) *Absent witnesses.*—If any material witness is absent, the prosecutor should so inform the court at once, and, if necessary, apply for an adjournment. *I. A. A. R.* 124.

(*d*) *Special plea and plea in bar of trial.*—The accused, before pleading "guilty" or "not guilty" to any charge, may object to the charge itself or challenge the jurisdiction of the court. In either event, the prosecutor has the right to address the court, and in the latter case to call witnesses also, in reply to the submission and evidence produced by the accused. *I. A. A. Rs.* 39, 43 *and M. I. M. L., third appendix, pp.* 380 *and* 381.

If the accused, in addition to his plea of "guilty" or "not guilty" offers a plea in bar of trial (*I. A. A. R.* 43) the court will hear the accused and his witnesses, if any. The prosecutor then has the right to call witnesses in reply (including himself if necessary) and, after the evidence to reply, *i.e.*, to make a short address, giving reasons why the plea should not be upheld. *M. I. M. L., third appendix, p.* 381.

(*e*) *When the accused pleads "guilty"*, the duties of the prosecutor are confined to (1) calling such witnesses as may be necessary if the summary be insufficient (*I. A. A. R.* 44 (*B*)), and (2) producing I. A. F. D-905.

N.B.—If the accused in a statement in mitigation says something which is inconsistant with his plea (*see para.* 121 *above*), the prosecutor should call the attention of the court to *I. A. A. R.* 44 (*D*) and prepare to call his witnesses as on a plea of not guilty"

(*f*) *Where the accused pleads "not guilty".*—If the accused applies for an adjournment, the prosecutor has the right to reply to that application and to call evidence upon it, if necessary. He should not oppose the application if the request of the accused is on reasonable grounds.

(*g*) *Opening address by the prosecutor.—See I. A. A. R.* 46 (*A*) *and Note* 2.—(*i*) In most of the simple cases which come before a court martial, an opening address is not necessary and the court are unlikely to call upon a prosecutor to make one, particularly if the summary of evidence has been recorded in chronological order. An opening address is desirable only where the evidence is long and complicated, such as in account cases and in cases where proof of facts rests largely on circumstantial evidence, from which the prosecution wishes the court to draw certain inferences. The reason for the address is to "put the court in the picture" so that they will understand the evidence.

(*ii*) The address should be in narrative form setting forth briefly the facts which are alleged and the evidence by which it is proposed to prove those facts. It is unnecessary to state what each witness is going to prove.

(*iii*) The address must be impartial and free from any unnecessary comment, denunciation or prejudice.

(*iv*) Great caution is necessary not to mention facts which it is not proposed or possible to prove in evidence.

If such facts are mentioned and are prejudicial to the fair trial of the accused the conviction will be quashed.

(*h*) *Calling of witnesses.*—Before calling his witnesses, and as the case proceeds, the prosecutor must consider whether he should call all those whose evidence is in the summary or abstract of evidence. The cross-examination of prosecution witnesses will be some indication whether it is necessary to call further witnesses to establish the same fact. He should also consider whether it is his duty to call as a witness any person whose evidence is not contained in the summary. (*I. A. A. R.* 121 *and* 122).

(*i*) *Examination of witnesses for the prosecution.*—The prosecution having ascertained the witness' name, number, unit, address, occupation, etc., as may be material, will elicit from the witness the relevant facts to which the witness can speak. This may be done by means of questions of a non-leading character (see *M. I. M. L., Chap. V, paras.* 102-106) or by permitting the witness to tell his own story, questions being subsequently asked to make good any omissions.

A series of short simple questions will generally assist the witness to recount facts in chronological order, and the president in making the record.

(*j*) *Re-examination of witnesses for the prosecution.*—*See para.* 132 *above.*

It may happen that a question in cross-examination of a prosecution witness has been so framed as to compel the witness to answer simply "yes" or "no", whereas there is within the Prosecutor's knowledge an explanation which should in fairness be made. In such a case the prosecutor may in re-examination refer the witness to that question and answer, and ask him if he has anything to add or explain.

The prosecutor should not dismiss a witness until he has ascertained whether the court desire to question him (*I. A. A. R.* 128 (*A*)) and until I. A. A. R. 127 (B) has been complied with.

(*k*) *Exhibits and Documents.*—The prosecutor must take care that each exhibit which he desires to put before the court is produced and identified by one of his witnesses. If any exhibit (*e.g.*, the property alleged to have been stolen) is to be referred to by more than one witness, each witness who refers to it must be invited to look at the exhibit, and explain its connection with the case. If a document is in the handwriting of, or signed by, the accused, the writing or signature should be identified.

If the prosecutor is himself producing documents he should do so, after being sworn as a witness, before he calls his other witnesses (*I. A. A. R.* 46 (*C*)).

Neither the prosecutor nor a witness may refer to the contents of a private document which is not before the court, unless evidence is given accounting for its absence. (*See M. I. M. L., Chap. V, para.* 73).

(*l*) *Procedure on close of prosecution.*—The prosecutor having called his witnesses, "The case for the prosecution is closed".

The subsequent procedure depends upon the exercise by the accused of his rights, and is fully set out in I. A. A. R. 47 and 48.

(*m*) *Cross-examination by the prosecutor.*—If the accused calls any witnesses to the facts, it is the duty of the prosecutor to assist the court to test the value of such evidence by *cross-examination.*

The result of omission to cross-examine is frequently that the evidence of the defence stands unchallenged, and the prosecutor cannot properly, in a subsequent

address, characterize as untrue a defence which he has not attempted by questions to the witness at the proper time to impugn. A further result is that a case is sometimes insufficiently investigated, and it is, therefore, found necessary to set aside the conviction. Effective cross-examination is a much more helpful and necessary duty than the making of a closing address.

Cross-examination is not limited to the matters dealt with in the examination-in-chief. (M.I.M.L. Chap. V,, para. 107). It must however, be confined to matters relevant, directly or indirectly, to the issue. Leading questions, may be asked in cross-examination, but not questions which assume that facts have been given in evidence which have not been given. (M.I.M.L. Chap. V, para. 109).

The following matters may only be raised in special circumstances:—

(*i*) The previous convictions, if any, of the accused or his bad character. (M.I.M.L. Chap. V. para. 60).

(*ii*) Suggestions that a witness is of bad character. (M. I. M. L., Chap. V, para. 110).

(*n*) *Recalling of witnesses.*—(I. A. A. R. 129 (B)).

(*o*) *Closing address.*—The desirability of making a closing address at the appropriate time, as provided in I.A.A.R. 47 and 48, is a matter for the prosecutor's discretion.

If there is any evidence or argument put forward by the defence which he thinks might seriously mislead the court, he should comment on it.

He is entitled to sum up the evidence generally and to point out any weakness in the defence, and to suggest

the inferences which the court may draw from the facts proved.

He must state nothing as a fact which has not been proved in evidence.

(*p*) *Closed Court.*—The presence of the prosecutor in closed court will vitiate the proceedings.

(*q*) *Advice of Judge-Advocate.*—The prosecutor is entitled before or during the trial to consult the Judge advocate, if any, on any question of law and procedure. (I. A. A. R. 91 (A)).

(*r*) *Procedure on conviction.*—If the accused is convicted on any charge, the prosecutor, if not already a witness, is sworn and produces evidence (I. A. F. D. 905) of the character, age, service, rank, etc., of the accused. (*See para.* 147 *above and* I.A.A.R. 53 (A) and (B)). He will also call attention to any additional punishment which the accused may suffer in consequence of any finding of the court.

158.

159.

THE TRIAL.—THE DUTIES OF DEFENDING OFFICER.

160. *Duties before trial.*—(*a*) *Qualifications.*—The defending officer, like the prosecutor, requires a working knowledge of the Indian Army Act Rules and of the rules of evidence. (*See para.* 156 (*b*). He must also make himself acquainted with the details of the case.

(*b*) *Preparation of defence.*—The "proper preparation of the defence" (*Note* (B) I to I. A. A. R. 81.) includes:—

(*i*) Study of the charge-sheet and summary of evidence, and consideration of legal points which he may raise, or which may arise, upon them, *e.g.*, objection to a charge, plea to the jurisdiction, plea in bar of trial, admissibility of a confession or other evidence.

(*ii*) Ascertaining from the accused what is his answer, if any, to each charge.

(*iii*) Communication with possible witnesses for the defence, to ascertain if they are able to give evidence in support of the accused's case, and the taking of appropriate steps to secure their attendance at the trial. (I. A. A. R. 23 (A) Note (A) 3; I.A.A.Rs. 123 and 81).

The defending officer's duty at the trial will be to present the accused's defence in the best possible light.

N.B.—He is not entitled to interview witnesses for the prosecution without special authority from the convening office.

He may properly prepare arguments on fact or law which his own reason or ingenuity may suggest but it would be improper for him to advise or suggest to the accused an account of the facts, other than that which the accused himself desires to give.

The defending officer is not called upon to judge the truth or otherwise of the accused's defence, nor is he permitted to express his own opinion or belief (I. A. A. R. 86 Note 2). To avoid, however, giving countenance to a line of defence which is incompatible with his duty as an officer he should apply through his commanding officer to the convening officer to withdraw from the case.

161. *Duties at the trial.—General.*—Having the rights, duties, and obligations of counsel, he must himself conduct the case as representing the accused, I.A.A.R. 81 (C) note (C), I.A.A.R. 82, *i.e.,* he will himself cross-examine witnesses for the prosecution, examine and re-examine witnesses for the defence, take any objections, make any submissions, and address the court on the accused's behalf.

(*b*) *Application for adjournment.*—The defending officer has the right to make this application and to address the court in support of it. It should not be made on the ground of a technical irregularity or omission, merely as a protest, where no benefit can accrue to the presentation of the defence from the postponement of the trial.

(*c*) *Cross-examination.*—(*See* M. I. M. L. chap. V, para. 107).—It is the defending officer's duty to question each witness for the prosecution on any matter which is to be alleged in defence, in so far as this matter is or should be within the witness's knowledge.

He should bear in mind the consequences of asking questions in cross-examination with a view to establishing the accused's good character. (M. I. M. L. chap. V, para. 60).

(*d*) *Objection and submissions.*—(*i*) He may take objection to any question put by the prosecutor to a witness for the prosecution on one of the following grounds; the objection should be made, if possible, before the witness answers. (I. A. A. R. 127 (A)).

(*a*) That it is a leading question.

(*b*) That it invites hearsay, or an account of an involuntary confession, or evidence of the accused's bad character, when that character has not been put in issue, etc.

(*ii*) At the close of the case for the prosecution, he may submit that the accused has no case to answer, and therefore, should not be called upon for his defence, because the prosecution have not produced evidence in support of one or more essentials in the charge (I.A.A.R. 47 Note 1 and I.A.A.R. 74).

N.B.—This submission must be to the effect that there is no evidence at all on the point or points, and not that the evidence is untrustworthy. A submission should not be made as a matter of course, because, if obviously groundless, it may indicate that there is no other or only a weak defence to the charge.

(*iii*) Where a witness whose evidence is not in the summary of evidence is called by the prosecutor, the defending officer may apply for an adjournment or postponement of cross-examination. (I.A.A.R. 121).

(*e*) *Advice of judge-advocate.*—He is entitled to consult the judge advocate, if one has been appointed, on any question of law or procedure relative to the charge or trial. (I.A.A.R. 91 (A)).

(*f*) *Demeanour.*—He must, throughout the proceedings, treat the court with respect and candour.

162.

163.

REVIEW OF PROCEEDINGS BEFORE CONFIRMATION.

164. *Duties of president shewn above applicable generally.*—A reviewing authority should acquaint himself with the duties of the president and ensure that the procedure has been correctly carried out.

165. *Check arrangement of the proceedings.*—Before reviewing the proceedings, the papers should be placed in proper order, if not already in order, in accordance with para. 151 above.

166. *Check the constitution of the court.*—Compare the names, etc., of the officers shewn on page "A" with those detailed in the convening order They should correspond exactly.

Where officers are not detailed by name, but by rank and regiment, ensure that an officer of the required *army* rank has sat on the court. A copy of the regimental order is not required. Where an officer of a certain rank is to be detailed by a station commander, the station order must be attached to the convening order. This last-mentioned method of detailing officers should never be used if it can be avoided.

The dates on page "A" and on the convening order should agree.

167. *When attendance of counsel or defending officer not recorded.*—A statement, in accordance with I.A.A.R. 22, signed by the accused, must be attached to the proceedings, to the effect that he did not wish to have an officer assigned to represent him at the trial.

168. *Certificate regarding Court of inquiry.*—If there has been a court of inquiry, ensure that the certificate in red ink is entered. *See Note* on p. 377, M.I.M.L.

169.

170. *Check that all necessary oaths have been administered.*—I.A.A. Section 82 and 83. I.A.A.R. 35 and 36.

171. *Interpreter.*—Accused must be given an opportunity to object to the interpreter and the fact must be recorded. I.A.A.R. 76 (C).

172. *Plea of "Guilty".*—Ensure that I.A.A.R. 42 (B) has been complied with and that the fact is recorded.

Check that any statement made by the accused is not inconsistent with the plea. *See para.* 121 above.

173.

174.

175. *Formalities regarding evidence.*—Before reading the evidence, check that the record shows:—

(*a*) That all witnesses were sworn or affirmed.

(*b*) That the rights of cross-examination and re-examination have been exercised or declined.

(*c*) That I.A.A.R. 127 (B) has been complied with.

176. *Proof of averments in the charge.*—Make out a table as shown in Appendix "A" and, as the evidence is read, fill in the columns to ensure that there is evidence to support every averment in the charge or evidence of facts from which such averments may be inferred.

177. *Exhibits.*—Ensure that:—

(*a*) All the exhibits, either originals or copies, are attached, unless it has been recorded that the court consider their attachment unnecessary.

(*b*) All the exhibits are properly and systematically marked as shewn in paragraph 137 above.

(*c*) All exhibits are signed by the president or judge-advocate.

(*d*) The identification letter of exhibits when mentioned is shewn in the margin in accordance with paragraph 137 above.

178. *Where the right to make an address or statement is declined.*—The record must show that the opportunity was offered and the right declined.

179.

180.

181. *The finding.*—(*a*) The full description of the accused as shewn in the charge sheet must be entered.

(*b*) Ensure that the finding is legal. *See* I.A.A. section 86 and I.A.A.R. 51 (D), (E) and (H).

(*c*) Check that a finding is recorded on all the charges, upon which the accused was arranged, whether laid in the alternative or not.

(*d*) Where the trial ends in an acquittal on all the charges, the finding should be signed and dated by the president and judge-advocate, if any. I.A.A.R. 52. Countersignature by the Convening Authority on the finding page is desirable to show that he has seen the result of the trial.

182.

183. *The sentence.—See para.* 148 *above.*

184. *Suspension of sentence.—See* Indian Army (Suspension of Sentences) Act M.I.M.L pp. 419-424.— The provisions regarding suspension of sentences are applicable both in peace and in war, and are not intended to be used on active service only.

The power of suspension places in the hands of a commander, a means of clemency and within reach of the soldier an opportunity to redeem his character.

The power can be exercised either before a soldier has been committed to prison or after he has served a portion of his sentence, provided that he has not been dismissed. The latter provision is valuable where a

long sentence has been awarded in that it does not rob the sentence of its deterrent effect whilst it permits the soldier to retain his military value.

Power of suspension can and should be used in special and deserving cases with advantage, as for example, in the case of a young soldier who, after deserting, subsequently surrenders himself and declares his intention of rejoining his unit and of becoming a good and efficient soldier.

185.

186. *Corrections and additions in proceedings.*—(*a*) Before confirmation the president may make corrections and remedy clerical omissions in the proceedings, but only in so far as they represent the actual transactions of the trial.

(*b*) After confirmation, the proceedings cannot be altered in any way. Such defects must be covered by certificates.

(*c*) After promulgation which completes confirmation, the confirming officer cannot make any alteration in his confirmation minute, nor can the minute be annulled, unless the confirming officer had no power to confirm. *Note* 1 *to* I.A.A. Section 94.

187.

CONFIRMATION.

188. *Confirmation warrant essential.*—The confirming officer must hold a warrant authorising him to confirm the finding and sentence of the court. Warrants are generally issued, not personally, but to the holder of an appointment. Such restrictions are usually inserted in the warrant and certain additional restrictions have been added by I.A.O. 1163 of 1946.

189. *Commanding officer of accused cannot confirm.*—Where an officer who would otherwise confirm the proceedings has investigated a case in his capacity as C. O., he should not subsequently confirm the proceedings of a court-martial arising out of the same matter.

190. *Application for advice.*—If, after reviewing the proceedings, the confirming officer has any doubts on the legality of the proceedings or experiences any other difficulties he should apply for advice to the Deputy Assistant-Judge-Advocate-General. The doubts and difficulties experienced and the specific questions on which advice is required must be fully set out.

191. *Occasions on which advice should generally be sought.*—

(*a*) If the confirming officer considers that he ought to withhold confirmation.

(*b*) If he considers revision is called for.

(*c*) If he considers re-trial is necessary.

192. *Confirmation minutes.*—These will be found on *page* 392 M.I.M.L.

193. *Non-confirmation.*—For cases in which confirmation should be withheld, *see Note* 2 to I.A.A. Section 94.

194. *Convictions on charges laid in alternative.*—If the court convict on *both* of two *alternative* charges; or on two charges which, though not in terms alternative, should have been so, the confirming authority should confirm only one of such findings, and consider whether some reduction of sentence is or is not desirable.

195. *Partial confirmation.*—The confirming officer, can by partial confirmation or by using I.A.A.R. 59 (A) often correct mistakes made by the court, and thus obviate the inconvenience of revision. A confirming officer cannot substitute a special finding for the finding of the court. *Note* 3 to I.A.A. Section 94.

196. *Variation of sentence.*—I.A.A.R. 61 cannot be invoked in the case of a *wholly illegal* sentence (*e.g.*, reduction to an acting rank) or in the case of a sentence which is invalid (*e.g.*, reduction *from* an acting rank), in such a case the proper course is to reassemble the court to pass a valid sentence.

197. *Release of accused.*—When a sentence is less than dismissal K.R. 688.

REVISION.

198. *Should be sparingly used,* as a rule, only with a view to the correction of minor errors in the finding and sentence. Instead of revision, partial confirmation can often be resorted to.

199. *Special finding indicated.*—If it appears that a special finding should have been made, the proceedings should be sent back for revision. I.A.A. Section 100.

200. *Sentences.*—A valid sentence informally expressed may be varied to the proper form and confirmed, or sent back for revision. A punishment in excess of the legal limit may be varied when confirming to bring it within the limit. *See* I.A.A.R. 61.

A sentence wholly illegal, cannot be varied, and should be sent back for revision. *See para.* 196 *above.*

201. *Memorandum ordering revision.*—When sending back proceedings for revision, it is advisable to refer the court specially to I.A.A.R. 57.

The reasons for directing revision should be clearly given, with an indication of the course or courses open to the court and appropriate to the circumstances, but without dictation of any particular course.

Remember that revision can only take place once.

202.

203.

PROMULGATION.—See K. R. 698.

204. *Normally.*—Promulgation normally consists of communication of the proceedings, including charges, finding sentence and confirmation to an accused. The promulgation minute (*See* M.I.M.L. p. 393) must be entered in the proceedings below the confirmation minute.

205. *On parade.*—Promulgation on parade will take place only when specially ordered by the confirming officer.

206. *In orders.*—The results of all courts martials will be published in the orders of all formations in which appeared notice of the convening of the court.

207. *Recommendation to mercy* must be promulgated. I.A.A.R. 58.

208.

RE-TRIAL.

209. *In exceptional circumstances only.*—Re-trial should only be ordered in very exceptional circumstances (*e.g.*, where the court was illegally constituted), if it is highly undesirable, in the interests of discipline, that the accused should escape without punishment. *In no case should re-trial be resorted to where the failure to secure a valid conviction is due to the default of the prosecution in preferring a bad charge, or to its failure to produce sufficient evidence.* Whenever it is considered advisable to convene a fresh court for the re-trial of an offender, the case will be referred for the advice of the Deputy- or Assistant-Judge-Advocate-General and for the orders of superior authority.

210. *After conviction by legally constituted court.*—When a conviction by a legally constituted court has been confirmed, the accused must be taken to have been convicted of an offence by court-martial, and he cannot, therefore, under I.A.A. Section 66, be tried again, even if the proceedings of the trial have been subsequently set aside by superior authority for an illegality, whether technical or not.

211. *Before entirely fresh court.*—If, after the proceedings of a trial have been "not confirmed" re-trial is ordered on the same charges, it must be held before an entirely fresh court.

212.

IRREGULARITIES DISCLOSED IN THE PROCEEDINGS.

213. *A certificate* should be attached in accordance with *R. A. I. Instruction* 425.

APPENDIX 'A'.

To ensure that there is evidence to support every averment make out a table similar to the one following, which is based on specimen charge No. 42 on page 359 of the M.I.M.L.:—

Averments.	Proved by					
	1st	2nd	3rd	4th	5th	
Dishonestly misappropriating	2*	4	5	...	...	
Ammunition ...	...	4	5	...	8	
The property of the Crown ...	...	...	...	...	8	
Entrusted to him in that ...	...	...	5	6	...	
He (identify him) ...	2	4	5	7	...	
At Lahore ...	1	3	4	7	...	
On the 22 July 1946 ...	1	...	...	...	...	
Dishonestly misappropriated (facts from which the Court can find dishonest misappropriation) twenty rounds of ball	2	4	5	...	...	
Ammunition ...	...	4	5	...	8	
The property of the Crown ...	...	...	...	...	8	
Value ...	...	...	...	...	8	
Which had been entrusted to him for the target practice the casuals of 'A' Company. ...	...	...	5	6	...	

*NOTE.—These figures refer to the pages of the summary of evidence (or proceedings.)

APPENDIX 'B'

(*See* para. 83)

To

The $\frac{\text{D. J. A. G.}}{\text{A. J. A. G.}}$

1. I forward herewith application for a (G. C. M.) (D. C. M.) for the trial of (Name).....(Unit).....

2. I consider trial should be by (G C. M.) or (D. C. M.) for the following reasons.

3. The charges have been checked and found to be framed in accordance with the specimens shown in the M. I. M. L. I have (no (the following) comments to make on the charges.

4. The following comments on the evidence are made.

5. Here should be stated the authorship of handwriting and signatures on exhibits and on which the summary of evidence is silent.

6. Here should be given any inside information or any technical or local knowledge necessary to a clear understanding of the case.

7. Here should be stated the matters (if any) on which the convening officer is in doubt or on which difficulty (if any) is experienced, and the particular matters on which advice is required.

"8. I forward herewith the following papers:—

2 typed copies of the summary of evidence.

2 typed copies of the charge sheet.

I. A. F. D. 905.

Copy of Court of Inquiry proceedings, if any.

All documentary exhibits in *original*."

Commander.

APPENDIX 'C'.

Para	*Reference in text of these Notes.*	*Equivalent reference for R.I.A.F.*
3(e)	I.A.A.R. 15(II) ...	Has no equivalent in I.A.F.A.R.
9	I.A.A.R. 15(B) ...	I.A.F.A.R. 15(B)
	I.A.A. 7(6) ...	I.A.F.A.R. 2A
12	R.A.I. Rule 201 ...	Regs I.A.F.R. 50
20	I.A.A.R. 20(A) ...	I.A.F.A.R, 27(a)
	I.A.A. 27(d) ...	I.A.F.A 37(a)
	I.A.A. 28(a) ...	I.A.F.A. 37(b)
	I.A.A. 27(c) ...	I.A.F.A. 37(c)
	I.A.A. 39(h) ...	I.A.F.A. 38(e)
	I.A.A. 31(d) ...	I.A.F.A. 44(a) (for 'commits theft', read 'steals'
21	I.A.A.R. 20(D) ...	I.A.F.A.R. 27(d)
	Section 39(h) ...	I.A.F.A. 38(e)
	Section 39(i) ...	I.A.F.A. 55(g)
23	Section 31(d) ...	I.A.F.A. 44(d)
24	I.A.A.R. 20(c) ...	I.A.F.A.R 27(c)
	Section 27(d) ...	I.A.F.A. 37(a)
	Section 31(c) ...	I.A.F.A. 44 c)
26	I.A.A. 67 ...	I.A.F.A. 78
Page 11	Section 25 (g), 26(d) ...	I.A.F.A. 33(2)(h)
32)	Sections 27(d) (e) and	I.A.F.A. 37(a), 37(c), 37(b)
34)	28(a)	
Page 14	Section 27(e) ...	I.A.F.A. 37(c)
39	Section 27(e) 28(a) ...	I.A.F.A. 37(c) 37(b)
Page 15	Section 39(h) ...	I.A.F.A. 38(e)
44	I.A.A. section 91 A (4) ...	I.A.F.A. 96(4)
Page16	Section 29 ...	I.A.F.A. 39
	R.A.I. Inst. 437-439 ...	Regs I.A.F. Ins. 256
48	I.A.A.R. 159(c) ...	I A.F.A.R. 187(c)
	I.A.A. 91A (3) and (4) ...	I A.F.A. 96(3) and (4).
	60 clear days. ...	21 clear days
	Section 126 ...	I.A.F.A. 62
	I.A.F. D-918 ...	A.F.F 115
	Regimental Orders ...	Unit Orders
	Military duty ...	Air force duty
49	I.A.A. 91A (6) ...	I.A.F.A. 96(5)
Page 18	Section 30 ...	I.A.F.A. 42
52	Sub-sections 30 (e) (f) (g) (h) (i) and (j). ...	I.A.F.A. 42(b)
	Sub-section 30(d) ...	I.A.F.A. 42(a)
Page 19	Section 31(h) ...	I.A.F.A. 45(c)

Para	*Reference in text of these Notes.*	*Equivalent reference for R.I.A.F.*
Page 19	Section 31 Theft ...	I.A.F.A. 44 Stealing
	Section 31(i) ...	I.A.F.A. 45(d)
Page 20	Section 35(e) ...	I.A.F.A. 50(e)
60	I.A.F.D—918 ...	A F.F-115
62	...	After 'The Vocabulary of Ordnance Stores (India)' insert.
	179-180 of Regulations for the Equipment of the Army in India, 1933.	"Air Publication 830".
	Para 139 of Clothing Regulations (India) 1939	
	Indian Army Act section 91A(3) and (4)	I.A.F.A. 96(3) and (4)
Page 23	Section 38(c) ...	I.A.F.A. 53(c)
Page 23	Section 37 ...	I A.F.A. 52
65	I.A.A. sec. 91 ...	I.A.F.A. 95
Page 23	Section 39(i) ...	I.A F.A. 55(g)
Page 25 and para 71	Section 41 ...	I.A.F.A. 58
72	I.A.A. secs. 69 & 70 ...	I.A.F.A. 80 and 81.
	R.A.I. Rule 385 ...	Regs. I.A.F.A. Rule 140
75	A.F.B-116 ...	A.F.F. 116
	I.A.F.D-905 ...	A.F.F. 296
	I.A.A.R 22(A) and secs 81 & 82. ...	I.A.F.A.R. 29 and I A.F.A.R. 88 and 89.
	...	After staffs add 'and the A.O.C,S.—Groups and their staffs'.
81	R.A.I. Ins. 419 ...	Regs. I.A.F.A. Inst. 260 & A.F.O. (I) 189/45.
88	I.A.A. section 20 read with R.A.I. Ins. 406	I A.F.A. R. 21
Page 34	I.A.A. sections 57-60 & I.A.A. Rs. 27, 29 & 30. ...	I.A.F.A. sections 70-73 & I.A.F.A. Rs. 33, 35, 36 & 37.
91(a)	I.A.A.R 32 (A) (i) ...	I.A.F.A.R 40(a)(i)
(b)	I.A.A.R 43 (A) (l) ...	I.A.F.A.R 51(a)(l)
(c)	I.A.A.R 29 (B) (iii) ...	I.A.F.A.R 35(b)(iii)
(d)	I.A.A.R 30 ...	I.A.F.A.R 36, 37.
(e)	I.A.A.R 29 (C) ...	I.A.F.A. 70
(f)	I.A.A.R 29 (B) (iii) (v) ...	I.A.F.A.R 35(b)(iii) & (v)

Para	*Reference in text of these Notes.*	*Equivalent reference for R.I.A.F.*
(g)	I.A.A.R 29 (B) (iv) ...	I.A.F.A.R 35(b)(iv)
96	K.R. 673(b) ...	Regs. I.A.F Ins. 264 (3)
100	I A.A,R 65(A) ...	I.A.F.A.R 72(a)
	I,A.A section 38 & I A.A. R 136	I.A.F.A. 53 & I.A.F.A.R 115
101	I A A.R 65(B) ...	I.A.F.A.R 72(b)
103	I.A.A.R 78 ...	I.A.F.A.R 85
104	I A A R 127(E) ...	No equivalent
	I.A.A R 127(B) ...	I.A.F.A.R 106(B)
108	I A.A R 31 and 32 ...	I.A.F.A.R 39 and 40
110	I.A A.R 87(B) ...	I.A.F.A.R 94(b)
	I.A A.R 86 ...	I.A.F.A.R 93
112	I.A.A R 37 ...	I.A.F.A.R 45
	I.A.A.R 35 & 36 ...	I.A.F.A.R 43 & 44
113	I.A A.R 76(c) ...	I.A.F A.R 83(c)
114	I.A.A R 38(B) ...	I.A.F.A.R 46(b)
115	R.A.I. Rule 366 ...	No equivalent
116	I.A.A.R 68(E) ...	I.A.F.A.R 75(e)
	I.A.A.R 51 ...	I.A.F.A.R 59
118(a)	I.A.A.R. 24 ...	I.A.F.A.R 31
(c)	Section 26(d) ...	I.A.F.A. 33(2)(h)
	Section 35(e) ...	I.A.F.A. 50(e)
(f)	Sec. 41 ...	Sec. 58
	Indian Army Act ...	Indian Air Force Act
	Sec. 27(e) ...	Sec. 37(c)
	Indian Army Act ...	Indian Air Force Act
	Sec. 31(d) ...	Sec. 44(d)
	Indian Army Act ...	Indian Air Force Act
(j)	I.A.A.R 34 ...	I.A.F.A.R 42
	I.A.A.R 24 ...	I.A.F.A.R 31
	I.A.A.R 67 ...	I.A.F.A.R 74
120	I.A.A.R 42(B) ...	I.A.F.A.R 50(b)
121	I.A.A.R 42(B) ...	I.A.F.A.R 50(b)
	I,A.A.R 44(D) ...	I.A.F.A.R 52(d)
	Section 27(d) ...	I.A.F.A. 37(a)
	Section 29 ...	I.A.F.A. 39
	Section 31 ...	I.A.F.A. 44(a)
122	I.A.A. section 83 ...	I.A.F.A. 88
	I.A.A.R. 126 ...	I.A.F.A.R 105
123	I.A.A.R 128 & 129(D) ...	I.A.F.A.R. 107 and 108(d)
124	I.A.A. section 38 and I.A.A.R. 136. ...	I.A.F.A. 53 I.A.F.A.R 115
125	I.A.A.R 69(A) ...	I.A.F.A.R 76(a)
126	I.A.A.R 69(B) ...	I.A.F.A.R 76(b)
128	I.A.A. sections 88, 89, 90, 91, 91A and 92	I.A.F.A. 92, 93, 94, 95, 96 and 97

Para	*Reference in text of these Notes.*	*Equivalent reference for R.I.A.F.*
135	I.A.A. section 91A(3) & (4)	I.A.F.A. 96(3) & (4)
143	I.A.A.R 47 & 48 ...	I.A.F.A.R 55 and 56
	I.A.A.R 78(D) ...	I.A.F.A.R 85(d)
145(e)	I.A.A. section 86 & I.A.A R 51(D) ...	I.A.F.A. 91 and I.A.F.A R. 59(b).
(f)	I.A.A.R 51(H) ...	I.A.F.A.R 59(g)
(g)	I.A.A.R 51(C) ...	I.A.F.A.R 59(e)
146(a)	I.A.A. Sec. 94 ...	I.A.F.A. Sec. 100.
147	I.A.F.D—905 ...	A.F.F. 296
148(a)	I.A.A. section 43 ...	I.A.F.A. 19
	I.A A. sections 72 & 73 ...	I.A.F.A. 75 & 76
	I.A.A. sections 26, 31 etc.	I.A.F.A. 33 and 44 etc.
(e)	R.A.I. Rule 201 ...	Regs. I.A.F. Rule 50
	I.A.A. sec. 43(f) ...	I.A.F.A. 19(f)
(f)	I.A.A. section 50 & I.A.AR. 20(F). ...	I.A.F.A. 26 & I.A.F.A.R. 27(f).
(g)	I.A.A. Sec. 87 ...	I.A.F.A. Sec. 86
149	I.A.A.R 55 ...	I.A.F.A.R. 63
152	I.A.A.R 127(B) ...	I.A.F.A.R. 106(B)
Page 58	I.A.A.R 66 ...	I.A.F.A.R. 73
156(c)	I.A.A.R 22 and 23 ...	I.A.F.A.R. 29 and 30
	I.A.A.R 24 ...	I.A.F.A.R. 31
(g)	I.A.F.D 905 ...	A.F.F. 296
157(c)	I.A.A.R. 124 ...	I.A.F.A.R. 103
(d)	I.A.A.R. 39, 43 ...	I.A.F.A.R. 47 and 51
(e)	I.A.A.R. 44(B) ...	I.A.F.A.R. 52(b)
	I.A.F.D—905 ...	A.F.F. 296
(g)	I.A.A.R. 46(A) ...	I.A.F.A.R. 54(a)
(h)	I.A.A.R. 121 and 122 ...	I.A.F.A.R. 99 and 100.
(j)	I.A.A.R. 128(A) ...	I.A.F.A.R. 107(a)
	I.A.A.R. 127(B) ...	I.A.F.A.R. 106(b)
(k)	I.A.A.R. 46(C) ...	I.A.F.A.R. 54(c)
(l)	I.A.A.R. 47 & 48 ...	I.A.F.A.R. 55 and 56
(n)	I.A.A.R. 129(B) ...	I.A.F.A.R. 108(b)
(o)	I.A.A.R. 47 and 48 ...	I.A.F.A.R. 55 and 56.
(q)	I.A.A.R. 91(A) ...	I.A.F.A.R. 98(a)
(r)	I.A.F.D—905 ...	A.F.F. 296
	I.A.A.R. 53(A) and (B) ...	I.A.F.A.R. 61(a) and (b)
160(b)	I.A.A.R 23, 123 and 81 ...	I.A.F.A.R. 30, 102 and 88
161	I.A.A.R. 81(c) and 82 ...	I.A.F.A.R. 88(c) and 89
161(d)	I.A.A.R 127(A) ...	I.A.F.A.R. 106(a)
	I.A.A.R 121 ...	I.A.F.A.R. 100
(e)	I.A.A.R 91(A) ...	I.A.F.A.R. 98(a)
167	I.A.A.R. 22 ...	I.A.F.A.R. 29

Para	*Reference in text of these Notes.*	*Equivalent reference for R.I.A.F.*
170	I A A. Sections 82 and 83 and I.A.A.R. 35 and 36	I.A.F.A. 87 and 88 I.A.F.A.R. 43 and 44
171	I.A.A.R. 76(C) ...	I.A.F.A.R 83(c)
172	I.A.A.R. 42(B) ...	I.A.F.A.R. 50(b)
175	I.A.A.R. 127(B) ...	I.A.F.A.R. 106(b)
181(b)	I.A.A. Section 86 and I.A A.R. 51(D), (E) and (H) ...	I.A.F.A 91 and I.A.F.A.R. 59(b), (c) and (g)
(d)	I.A.A.R. 52 ...	I.A.F.A.R. 60
195	I.A.A.R. 59(A) ...	I.A.F.A.R. 67(a)
196	I.A.A.R. 61 ...	I.A.F.A.R 69
197	K.R. 688 ...	Regs. I.A.F 270(A)
199	I.A.A. section 100 ...	I.A.F.A. 107
200	I.A.A.R. 61 ...	I.A.F.A.R. 69
201	I.A.A.R. 57 ...	I.A.F.A R. 65
Page 78	K.R. 698 ...	Regs. I.A F 271
207	I.A.A.R. 58 ...	I.A.F.A.R. 66
210	I.A.A. section 66 ...	I.A.F.A.77
213	R.A.I. Instruction 425 ...	Regs. I.A.F. Inst. 297